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THE

PENAL CODE

OF

THE HAWAIIAN KINGDOM,

COMPILED

FROM THE PENAL CODE OF 1850,

AND THE VARIOUS PENAL ENACTMENTS SINCE MADE,

PURSUANT TO ACT OF THE LEGISLATIVE

ASSEMBLY, JUNE 22D, 1868.

PUBLISHED BY AUTHORITY.

PRINTED AT THE GOVERNMENT PRESS:

HONOLULU, OAHU.

1869.

PREFACE.

By an Act of the Legislative Assembly, approved June 22nd, 1868, the Judges of the Supreme Court were "directed to cause to be compiled, ready for publication, both in the Hawaiian and English languages, the Penal Laws of the Kingdom, which may be in force at the termination of the present (1868) Legislative Assembly;" and provision was made for the publication of the work when so prepared.

It seemed proper to place the work in the hands of Commissioners, and ROBERT G. DAVIS, ESQ., and RICHARD H. STANLEY, ESQ., legal gentlemen of high qualifications for this work, were appointed to prepare the compilation and submit it to the Judges for review. The matter required much care in collating the amendments and additions made to the Penal Code during eighteen years, so as to ascertain what were "the Penal Laws in force."

The ordinary difficulties of preparing a compilation which was to present the Penal Laws as they stood, and not a code to be submitted to the Legislature for action, were enhanced by the necessity of preparing it in two languages. As a rule, the original Hawaiian version has not been varied except where a radical and irreconcilable difference existed between it and the English version, as is provided by Act of 10th January 1865, that in such cases the English version shall be held binding.

It will be seen that thirty-six new chapters have been

added to the original Penal Code, each containing all the laws and parts of laws embraced under their several titles, with references to the Statutes from whence they are derived.

Indices have been prepared in both languages, which it is hoped will be found both copious and clear. Especial effort was made that the Hawaiian version should in all respects be as complete as the English.

The work having been thus prepared, was carefully examined by us in concert with the Commissioners, and such emendations were made as were deemed requisite. We desire to express our satisfaction at the faithful manner in which the Commissioners have performed the duty imposed upon them.

ELISHA H. ALLEN,
ALFRED S. HARTWELL,
JAMES W. AUSTIN.

April 3, 1869.

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TO PUNISH BARRATRY.

PENAL CODE

OF THE

HAWAIIAN ISLANDS.

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DEFINITIONS OF SOME OF THE TERMS USED IN THIS CODE.

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2. The terms *felony* and *crime* defined.
3. Malice defined.
4. The terms *or* and *and*.
5. Words in the masculine gender, words in the singular or plural number, and words importing adults.
6. Words importing persons.

1. The term *offense*, as used in this code, means the doing what a penal law forbids to be done, or omitting to do what it commands.

2. The terms *felony* and *crime*, are, within the meaning of the provisions of this code, synonomous, and mean such offenses as are punishable with death, or imprisonment for a longer period than two years, or by the forfeiture of any civil or political right, and also larceny. Any offence not appearing to be a felony or crime is a misdemeanor.

3. Malice in respect to the commission of any offense, except in cases where it is otherwise expressly provided or plainly intended, includes not only hatred, ill-will and desire of revenge; but cruelty of disposition or temper; and also a motive or desire of gain or advantage to the offender or another; or of

doing a wrong or injury to any person or persons, or to the public. It also includes the acting with a heedless, reckless disregard or gross negligence of the life or lives, the health or personal safety, or legal rights or privileges of another or others, many or few, known or unknown : also the willful violation of a legal duty or obligation, and willful contravention of law.

4. Each of the terms *or* and *and*, has the meaning of the other or of both, where the subject matter, sense and connection require such construction.

5. Words in the masculine gender, signify both the masculine and feminine gender, and those in the singular or plural number signify both the singular and plural number, and words importing adults, signify youths or children, where, from the subject matter, the sense, and the connection in which the words are used, such construction appears to be intended.

6. Words importing persons, for instance, *another*, *others*, *any*, *any one*, *anybody*, and the like, signify not only persons, but corporations, societies, communities, assemblies, inhabitants of a district or neighborhood, or persons known or unknown, and the public generally where it appears, from the subject matter, the sense, and the connection in which such words are used, that such construction is intended.

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9. Fines appropriated to the government.

1. No person shall be subject to punishment for any offense, except on due and legal conviction thereof in a court having jurisdiction of the case.

2. No person shall be subject to be tried and sentenced to be punished in any court, for an alleged offense, unless upon indictment, except for offenses within the jurisdiction of a police court or district justice, or in summary proceedings for contempt.

3. In the trial of any person on the charge of any offense, he shall have a right to meet the witnesses, who are produced against him, face to face; to produce witnesses and proofs in his own favor; and by himself or his counsel, to examine the witnesses produced by himself, and cross-examine those produced against him; and to be heard in his defense.

4. No person shall be convicted of any offense, for which by law he is entitled to trial by jury, unless on confession thereof in open court, or admission thereof by his plea, or by the verdict of the jury.

5. No person shall be required to answer again for an offense, for which he has once been duly convicted, or of which he has been duly acquitted upon a good and sufficient indictment.

6. A party accused shall be presumed innocent; and in case his guilt is not satisfactorily shown, be acquitted.

7. Every one shall be presumed to intend the natural and plainly probable consequences of his acts.

8. A criminal prosecution for an offense shall not destroy the right of action by the party injured thereby, unless it be expressly so provided.

9. Every fine and forfeiture of property imposed as a punishment for any offense, or for a violation or neglect of any duty, where no other appropriation is expressly made, shall accrue and be appropriated to the government.

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3. An offense committed partly within and partly without the kingdom.
4. Nothing in this chapter contained to be construed contrary to the law of nations.

1. All persons, whether subjects of this kingdom, or citizens or subjects of any foreign state, government or country, are, while within the limits of this kingdom, subject to its laws, except so far as exception is made by the law of nations in respect to ambassadors or others.

2. Where an act is done or a fact or effect takes place within this kingdom, affecting the welfare of the kingdom, or the personal safety, the property or rights of any of its inhabitants, being within this kingdom, any person causing, procuring, machinating or promoting the same, or instigating another thereto, or aiding or assisting therein, is amenable to the laws of this kingdom, whether he be at the time within or without its limits.

3. Where the commission of an offense commenced without this kingdom is consummated within it, the offender is subject to be prosecuted and punished therefor in this kingdom.

4. Nothing in this chapter contained shall be construed contrary to the law and usages of nations.

CHAPTER IV.

CAPACITY AND RESPONSIBILITY FOR OFFENSES.

CONTENTS.

SECTION 1. Infant under seven years of age.
2. Infant from seven to fourteen.
3. An idiot.
4. An insane person.
5. Compulsion.

1. An infant, under seven years of age, shall be deemed incompetent to commit an offense.

2. Between the ages of seven and fourteen years, competency to commit any alleged offense, and the fact that the accused acted with intelligence and understanding of the nature of the act, shall be determined by the evidence of the case, without any general presumption for or against the same.

3. Any person who, by reason of his idiocy or mental imbecility, is not competent to discern the nature and criminality of an act done by him, shall not be held criminally responsible for such act.

4. Any person acting under mental derangement, rendering him incompetent to discern the nature and criminality of an act done by him, shall not be subject to punishment therefor: Provided, however, that if any such person, while capable of discerning the nature and criminality of any act, entertained the intent to do the same, and subsequently does it in pursuance and execution of such intent, he shall be held responsible therefor, though the same be done in such state of mental derangement; and so also if any person voluntarily or heedlessly induce the mental derangement by intoxication or otherwise.

5. No person shall be held criminally responsible for any act, to the doing of which he is compelled by force which he cannot resist, or from which he cannot escape: Provided, however, that no compulsion shall be presumed without evidence; and no one shall be able to justify himself against a charge of his doing an injury to another, by showing the threat or imminent danger of an equal or less injury to himself.

CHAPTER V.

PARTIES TO AN OFFENSE.—ACCESSORIES.

CONTENLS.

SECTION 1. Parties taking part in the commission of any offense are principals.
2. Any person not present at the commission of an offense.
3. Punishment.

1. All who take part in the commission of any offense, or being present, aid, incite, countenance or encourage others in the commission thereof, shall be deemed principals therein.

2. Any person who not himself being present at the commission of an offense, abets another in the commission thereof, or procures, counsels, incites, commands or hires another to commit the same, which such other thereupon, in pursuance thereof, commits, is an accessory before the fact, to the commission of such offense.

3. Every person who aids in the commission of an offense, or is accessory before the fact thereto, is guilty of such offense, and shall be subject to punishment therefor, in the same manner and to the same effect as if he had been present at the commission thereof and actually taken part therein. See chap. XLV (sections 1 and 2) as to accessories after the fact.

CHAPTER VI.

TREASON.

CONTENTS.

SECTION 1. Treason defined.
2. Allegiance.
3. Local allegiance.
4. Ambassadors and others.
5. An overt act is requisite to levying war.
6. The war must be levied for the dethroning or destruction of the King, or for some general purpose.
7. An accessory before the fact.
8. The testimony of two witnesses requisite to convict of treason.
9. Punishment.
10. Punishment for concealing knowledge of the commission of treason.

1. Treason is hereby defined to be any plotting or attempt to dethrone or destroy the King, or the levying of war against the King's government, or the adhering to the enemies thereof, giving them aid and comfort, the same being done by a person owing allegiance to this kingdom.

2. Allegiance is the obedience and fidelity due to the kingdom from those under its protection.

3. An alien, whether his native country be at war or at peace with this kingdom, owes allegiance to this kingdom during his residence therein, and during such residence, is capable of committing treason against this kingdom.

4. Ambassadors and other ministers of foreign states, and their alien secretaries, servants and members of their families, do not owe allegiance to this kingdom, though resident therein, and are not capable of committing treason against this kingdom.

5. To constitute the levying of war, contemplated in the first section of this chapter, it shall be requisite that the persons concerned therein be parties to some overt act, in or towards procuring, preparing or using force, or putting themselves in a condition in readiness to use force, either by being present at such overt act, or by promoting, aiding in, or being otherwise accessory before the fact to the same.

6. In order to constitute the levying of war, the force must be employed or intended to be employed for the dethroning or destruction of the King or in contravention of the laws, or in opposition to the authority of the King's government, with an intent or for an object affecting some of the branches or departments of said government generally, or affecting the enactment, repeal or enforcement of laws in general, or of some general law; or affecting the people, or the public tranquility generally; in distinction from some special intent or object, affecting individuals other than the King, or a particular district.

7. An accessory before the fact to treason is guilty of treason, and shall be subject to prosecution, trial and punishment therefor, though the principals more directly concerned have not been convicted, or are not amenable to justice.

8. No person shall be convicted of treason but by the testimony of two or more lawful witnesses to the same overt act of treason whereof he stands charged, unless he shall in open court, confess such treason.

9. Whoever shall commit the crime of treason, shall suffer the punishment of death; and all his property shall be confiscated to the government.

10. If any person who shall have knowledge of the commission of treason against this kingdom, shall conceal the same, and shall not, as soon as may be, disclose and make known such treason to the Governor of the island on which he resides, he is guilty of a great crime, and shall be punished by a fine not exceeding five thousand dollars, or imprisonment at hard labor not exceeding ten years, in the discretion of the court.

CHAPTER VII.

(As amended by the Act of June 30, 1860.)

MURDER—MANSLAUGHTER.

CONTENTS.

Section 1. Murder defined.
2. Malice aforethought to be presumed.
3. Murder punishable by death.
4. Disposition of the convict's dead body.
5. Definition of manslaughter.
6. Degrees of manslaughter.
7. Punishment in the first degree.
8. Punishment in the second degree.
9. Punishment in the third degree.
10. Punishment if found guilty of assault and battery.
11. Death to ensue within a year and a day.
12. Liabilities as to offences committed previous to the law of 1860.

1. Murder is the killing of any human being with malice aforethought, without authority, justification or extenuation by law.

2. When the act of killing another is proved, malice aforethought shall be presumed, and the burthen shall rest upon the party who committed the killing to show that it did not exist, or a legal justification or extenuation therefor.

3. Whoever is guilty of murder shall be punished by death.

4. In every case of sentence to punishment by death, the court may, in their discretion, order the body of the convict to be dissected, and the marshal in such case shall deliver the dead body to any surgeon who may wish to have the body for dissection.

5. Whoever kills a human being without malice aforethought, and without authority, justification or extenuation by law, is guilty of the offense of manslaughter.

6. Manslaughter is of three degrees, and the jury under an indictment for murder or manslaughter may return a verdict of manslaughter in either degree, or of assault and battery, as the facts proved will warrant.

7. Whoever is guilty of manslaughter in the first degree shall be punished by imprisonment at hard labor, for a term of years not less than ten, nor more than twenty, in the discretion of the court.

8. Whoever is guilty of manslaughter in the second degree shall be punished by imprisonment at hard labor, not more than ten years or less than five years.

9. Whoever is guilty of manslaughter in the third degree shall be punished by imprisonment at hard labor not more than five years, or by a fine not more than one thousand dollars, in the discretion of the court.

10. Whoever, under an indictment for murder, or manslaughter, shall be found guilty of assault and battery, as provided in section 6 of this chapter, shall be punished by imprisonment at hard labor not more than two years, or by a fine not exceeding five hundred dollars, in the discretion of the court.

11. No person shall be adjudged to have killed another unless death ensues within a year and a day from the injury inflicted.

12. Chapter VII of the Penal Code is hereby repealed from and after the passage of this chapter: Provided, however, that such repeal shall not affect any offense committed or penalty or forfeiture incurred under said chapter, but that the same shall remain in full force in respect to the liability of any person to be proceeded against, or against whom proceedings are pending, for any offense committed under said chapter.

CHAPTER VIII.

DUELLING.

CONTENTS.

SECTION 1. Killing in a duel—Punishment.
2. Engaging in a duel or challenging.
3. Accepting a challenge.
4. Posting.

1. Whoever shall kill another in a duel, fought in pursuance of an appointment with, or with the assent of the party killed, shall be adjudged guilty of manslaughter in the first degree, and suffer the punishment prescribed for that offense by the laws of this kingdom. (1864, p. 32.)

2. Any person who shall engage in a duel, with any deadly weapon, although no homicide shall ensue; or shall challenge another to fight such duel, or shall send or deliver any written or verbal message purporting or intended to be such challenge, although no duel shall ensue, shall be punished by a fine not exceeding one thousand dollars; and shall be incapable of holding any office or place of honor, profit or trust, under the constitution or laws of this kingdom.

3. Any person who shall accept any such challenge, or who shall knowingly carry or deliver any such challenge or message, whether a duel ensue or not; and any person who shall be present at the fighting of a duel that is fought with deadly weapons, as an aid, second or surgeon; or who shall advise, encourage or promote such duel, shall be punished by a fine not exceeding five hundred dollars, and incapacitated as mentioned in the preceding section for the term of ten years after the conviction of such offense.

4. Any person who shall post another, or, in writing or print, use any reproachful or contemptuous language, to or concerning another, for not fighting a duel, or for not sending or accepting a challenge, shall be punished by a fine not exceeding two hundred and fifty dollars.

CHAPTER IX.

ASSAULT AND BATTERY.

CONTENTS.

SECTION 1. Assault defined.
2. Battery—assault and battery—defined.
3. Maiming or disfiguring.
4. Assault with intent to murder, maim or disfigure.
5. Assault with a dangerous weapon with intent to commit burglary, robbery, manslaughter or murder.
6. Without a dangerous weapon, with intent to commit burglary, robbery, &c.
7. Assault or assault and battery on any public officer.
8. Assault or assault and battery with a knife, sword cane, &c.
9. Slight corporal injuries.
10. Assaults on public ministers.

1. An assault is a malicious attempt forcibly to do a corporal injury to another without authority or justification by law.

2. A battery, or an assault and battery, is the malicious and forcible infliction of a corporal injury on another, without authority or justification by law.

3. Whoever with malicious intent to maim, or disfigure, or mutilate, shall cut out or maim the tongue, put out or destroy an eye, cut or tear off an ear, cut or slit or mutilate the nose or lip, or destroy or disable any limb, member or bodily organ of another, shall be punished by a fine not exceeding one thousand dollars, and imprisonment at hard labor not exceeding ten years.

4. Whoever shall assault another, with intent to murder, or to maim or disfigure his person in any of the ways mentioned in the preceding section, shall be judged guilty of assault in the first degree, and shall be punished by a fine not exceeding one thousand dollars, and imprisonment not more than five years.

5. Whoever being armed with a dangerous weapon shall assault another, with intent to commit burglary, robbery, manslaughter or murder, or other crime of such character, shall be punished by a fine not exceeding one thousand dollars, and imprisonment at hard labor not more than ten years.

6. Whoever not being armed with a dangerous weapon, shall assault another with force and violence with intent to commit burglary, robbery or theft, shall be punished by a fine not to exceed five hundred dollars, and imprisonment at hard labor not to exceed five years.

7. Whoever shall commit an assault, or an assault and battery on any public officer, civil or judicial, with intent to resist, prevent, hinder or obstruct him in the discharge or execution of his duty as such, shall be punished by a fine not exceeding one thousand dollars, and imprisonment at hard labor not exceeding three years.

8. Whoever shall commit an assault or an assault and battery on another with a knife, sword cane, or any other weapon, obviously and imminently dangerous to life, shall receive fifty lashes on his back, and be fined one hundred dollars; or be fined not to exceed five hundred dollars, and imprisoned at hard labor not to exceed five years, in the discretion of the court.

9. Whoever inflicts a slight corporal injury upon another, as by striking him with his fist, spitting in his face, inciting and causing a dog to bite him, or any injury of a like gravity, however slight, is guilty of an assault and battery, and shall be punished by a fine of not more than one hundred dollars, or by imprisonment at hard labor of not more than ~~twenty days~~ six months, in the discretion of the court. (1866, p. 5.)

10. If any person assault, strike, wound, imprison, or in any other manner infract the law of nations, by offering violence to the person of a public minister, such person so offending, on conviction, shall be imprisoned not exceeding five years, and fined at the discretion of the court; and, if an officer of this government, shall be liable to removal from office. (Civil Code, Section 466.)

CHAPTER X.

KIDNAPPING—UNLAWFUL IMPRISONMENT AND CHILD STEALING.

CONTENTS.

SECTION 1. Kidnapping—Punishment.
2. Unlawful imprisonment—Punishment.
3. Presumption.
4. Child stealing—Punishment.
5. Receiving or harboring a stolen child.
6. Detaining a child on claim of right.

1. Whoever kidnaps, that is, forcibly or fraudulently and deceitfully, and without authority by law, imprisons, seizes, detains or inveigles away any person, with intent to cause such person to be secreted within this kingdom against his will, or sent out of this kingdom against his will, or sold or held as a slave, shall be punished by a fine not exceeding one thousand dollars, and be imprisoned at hard labor not more than two years.

2. Whoever maliciously, without authority by law, imprisons another, or causes any one to be imprisoned, such imprisonment not appearing to be kidnapping, shall be punished by imprisonment at hard labor not exceeding one year, or by a fine not exceeding two hundred dollars.

3. In the trial of any person for kidnapping or unlawful imprisonment, any alleged assent of the person charged to have been kidnapped or unlawfully imprisoned, shall be presumed to have been obtained by fraud or extorted by duress or threats, and shall, unless such presumption shall be rebutted by satisfactory proof to the contrary thereof, be null and of no avail in defense against the charge of such offense.

4. Whoever is guilty of child-stealing, that is, maliciously by fraud, force or deception, conveying, leading, inveigling, taking, decoying or enticing away, or detaining or concealing any child under the age of eighteen years, with intent to deprive its parent or guardian, or any person having lawful charge of it, of the custody and control of such child, or with intent to steal

any article upon or about the person of such child, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars, or both, in the discretion of the court.

5. Whoever receives or harbors any such child, knowing the same to be stolen, with the intent specified in the preceding section, shall be subject to like punishment as for child-stealing.

6. The two preceding sections are not applicable to the case where one obtains, detains, or receives a child from motives of humanity, to protect it from cruelty, or save it from suffering, or in good faith as being the legal parent, guardian or master, and entitled by law to the custody of any child, and for the purpose of asserting and vindicating such right, or as being the reputed father of such child, the same being illegitimate; but the right to the custody of the child, shall nevertheless, in either such case, be subject to be determined by the courts or judges upon the institution of suitable legal proceedings between the parties.

CHAPTER XI.

RAPE—CARNAL ABUSE OF A CHILD—ABDUCTION—SEDUCTION.

CONTENTS.

SECTION 1. Rape—Punishment.
2. Carnally abusing a female child—Punishment.
3. Assault with intent to ravish.
4. Abduction—Punishment.
5. Consent of female child void.
6. Seduction—Punishment.
7. The injured female a competent witness.

1. Whoever commits a rape, that is, ravishes or has carnal intercourse with any female, by force and against her will, shall be punished by a fine not exceeding one thousand dollars, and imprisonment at hard labor for life or any number of years.

2. Whoever ravishes or carnally abuses and knows any female child under the age of ten years, shall suffer the punishment of death, or imprisonment for life at hard labor, in the discretion of the court.

3. Whoever maliciously assaults any female with the intent to commit the crime of rape, or maliciously assaults any female child under the age of ten years, shall be punished by fine not exceeding one thousand dollars, and imprisonment at hard labor for not more than five years.

4. Whoever commits the offense of abduction, that is, by force or deception takes or entices away or detains any female, with intent to marry or to carnally defile her, or cause her to be married or carnally defiled, without her consent given previously to her being so taken or enticed away or detained, shall be punished by a fine not to exceed five hundred dollars, and imprisonment at hard labor not more than three years.

5. If the female so abducted be a child under ten years of age, such abduction shall be conclusively presumed to be by force, and without her consent and against her will.

6. Whoever, by conspiracy or by willful falsehood or deceit, seduces, causes or procures any unmarried female to commit fornication, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than two years : Provided, however, that in case the parties to such fornication, subsequently legally intermarry together the above penalty shall not thereupon be inflicted.

7. The female upon whom rape is alleged to have been committed, or who is alleged to have been abducted or seduced, is a competent witness in a prosecution for such rape, abduction or seduction ; but no person shall be convicted of rape, seduction or abduction, upon the mere testimony of such female uncorroborated by other evidence direct or circumstantial.

CHAPTER XII.

CAUSING ABORTION—CONCEALING THE DEATH OF AN INFANT.

CONTENTS.

SECTION 1. Causing abortion.
2. Causing abortion to save life justified.
3. Concealing the death of an infant.

The causing of abortions has from ancient times been a great sin in this land, therefore it is hereby enacted :

1. Whoever maliciously, without lawful justification, administers, or causes or procures to be administered any poison or noxious thing to a woman then with child, in order to produce her miscarriage, or maliciously uses any instrument or other means with like intent, shall, if such woman be then quick with child, be punished by a fine not exceeding one thousand dollars and imprisonment at hard labor not more than five years. And if she be then not quick with child, shall be punished by a fine not exceeding five hundred dollars, and imprisonment at hard labor not more than two years.

2. Where means of causing abortion are used for the purpose of saving the life of the woman, the surgeon or other person using such means is lawfully justified.

3. If any woman conceals the death of any issue of her body, whether born alive or not, which, if born alive, would have been a bastard, so that it may not be known, whether such issue was born alive or not, or whether it was murdered, she shall be punished by fine not exceeding one hundred dollars, and imprisonment at hard labor not more than two years.

CHAPTER XIII.

POLYGAMY—ADULTERY—FORNICATION—INCEST—SODOMY

CONTENTS.

SECTION 1. Polygamy—Punishment.
2. Married persons defined.
3. Husband or wife beyond sea—person divorced.
4. Adultery defined.
5. Punishment.
6. Fornication defined—Punishment. If parties marry penalty not to be imposed.
7. Illicit cohabitation punished as adultery.
8. Lewd conversation, lascivious conduct, etc.
9. Carnal connection with a female under fourteen years of age—Punishment.
10. Incest defined—Punishment.
11. Sodomy defined—Punishment.
12. Pregnancy.
13. Cohabitation after divorce—Punishment.
14. Civil action for criminal conversation or seduction—Female not liable to criminal prosecution.

1. Every married person who marries another husband or wife within this kingdom, or having married another husband or wife out of this kingdom, cohabits with such other husband or wife within this kingdom, is guilty of polygamy and shall be punished by a fine not exceeding five hundred dollars, and imprisonment at hard labor not exceeding two years.

2. A married person within the meaning of this chapter is one having a husband or wife living.

3. A person, whose husband or wife has been continually remaining beyond sea, or having voluntarily withdrawn himself or herself, has remained absent for the space of four years, and not been known by him or her to be living, shall not be considered a married person within the meaning of this law: neither shall a person, who has been legally divorced from the bond of matrimony, be subject thereto, in case his or her crime or misconduct was not the occasion of the divorce.

4. (As amended by the Act of 14th February, 1859.) Sexual intercourse between a man, married or unmarried, and a married woman not his wife, is adultery by each; and between a married man and an unmarried woman, is adultery by each.

5. Every man who commits adultery shall be punished by a fine not exceeding one hundred nor less than thirty dollars, or by imprisonment at hard labor not more than twelve nor less than three months, or by both fine and imprisonment within the aforementioned limits, in the discretion of the court; and every woman who commits adultery shall be punished by a fine not exceeding thirty nor less then ten dollars, or imprisonment at hard labor not more than four nor less than two months, in the discretion of the court. (1866, p. 4.)

6. Fornication is sexual intercourse between an unmarried man and an unmarried woman. Whoever is guilty of the same shall be punished by a fine not exceeding fifty nor less than fifteen dollars. or by imprisonment at hard labor not more than three months nor less than one month, in the discretion of the court. But if they shall lawfully marry, with the consent of their parents, then the above penalty shall not be imposed. (1866, p. 4.)

7. (As amended by the Act of 22d June, 1852.) Illicit cohabitation shall hereafter be punished as adultery.

8. Any man or woman who is guilty of lewd conversation, lascivious conduct, or libidinous solicitations, shall be punished by a fine not less than two nor more than ten dollars, or by imprisonment at hard labor not exceeding ten days.

9. Whoever shall be convicted before any police or district justice of the kingdom, of having sexual or carnal intercourse with any female of this kingdom, under the age of fourteen years, shall be imprisoned at hard labor for any term, not less than three, nor more than eighteen months, in the discretion of the court. (1864, p. 15.)

10. Persons within the degrees of consanguinity or affinity, within which marriage is prohibited, who intermarry with each other, or commit an act of sexual intercourse with each other, are guilty of incest, and shall be punished by fine not exceeding five hundred dollars, or by imprisonment at hard labor for not more than ten years.

11. Whoever commits sodomy, that is, the crime against nature, either with mankind or any beast, shall be punished by a fine not exceeding one thousand dollars, and by imprisonment at hard labor not more than twenty years.

12. No woman shall be charged with or convicted of the offense of adultery or fornication because she is found pregnant, or has given birth to a child. (1862, p. 12.)

13. If any persons, after being divorced for any cause whatever, shall cohabit as husband and wife, they shall be liable to all the penalties provided by the laws against adultery. (Section 1335 Civil Code.)

14. Whenever, in any case of criminal conversation or seduction, an action at law for the recovery of damages shall be instituted by any party entitled to maintain such action, then, and in that case, the woman who may have been the subject of such criminal conversation or seduction, shall not be liable to be prosecuted criminally for adultery or fornication, under the provisions of this chapter. (1862, p. 12.)

Rep. 96-88.

CHAPTER XIV.

BURGLARY AND HOUSE BREAKING.

CONTENTS.

SECTION 1. Burglary—Punishment.
2. To constitute burglary it is not necessary that any felony should be actually committed.
3. Two kinds of breaking—Actual breaking.
4. Entering by an aperture found open.
5. Constructive breaking.
6. What is an entry.
7. The dwelling house must be occupied as such.
8. Whose dwelling house a house is.
9. The Government, or any corporation, may occupy a dwelling house by others, like individuals.
10. The breaking may be on a different night from the entry.
11. Aggravated burglary—Punishment.
12. Entering a dwelling house in the night without breaking, armed with a dangerous weapon—Punishment.
13. Without a dangerous weapon—Punishment.
14. Committing a felony in a dwelling house where any inmate is within in the daytime—Punishment.
15. In the day or night where no inmate is within—Punishment.
16, 17, 18, 19. Breaking and entering houses, &c., not being a dwelling house—Punishment.

1. Whoever in the night breaks and enters the dwelling house of another with intent to commit murder, rape, arson, robbery, larceny or other felony, within the same; or by day or night enters the same with such intent, and in the night breaks with such intent any apartment thereof; or in the night enters the same with such intent and breaks out, or being an inmate therein, in the night breaks and enters, with such intent, any apartment thereof, without any right or authority to enter the same, at the time, is guilty of burglary, and shall be punished by fine and imprisonment at hard labor not to exceed one thousand dollars, nor more than ten years.

2. To constitute burglary it is not necessary that any crime within the meaning of the above section should be actually committed; but simply that the intent to commit some such crime should exist, either at the time of entry or breaking.

3. There are two kinds of breaking, actual and constructive. An actual breaking may be made—

By breaking the substance of a door or window ; as the glass, sash, panel or shutters :

By unfastening either and opening it ; as by raising a latch and pushing open a door :

By merely opening either when closed but not fastened ; as by raising a sash, window, or pushing open a door :

By entering a chimney ; or by breaking the sides of an aperture so as to enlarge it and thereby enter :

By breaking, removing or opening the roof, wall, ceiling, floor or any defense or barrier against entry, which is a parcel of the dwelling house.

4. But the entering by any aperture found open is not a breaking ; as by a hole in the roof or wall, other than a chimney, or by an open door or window. Neither is the opening of any window, door, or other aperture partly open, further than it was open before, in the manner in which it was intended by its construction to be opened, a breaking.

5. A constructive breaking is where an entrance is obtained,

By violence or threats of injury to persons or property, or other intimidation, or by making frightful noises, using or showing dangerous weapons, attacks on the house or inmates and the like :

By fraud or trick, as by abuse of or under pretense of process or legal authority, or of business with one within ; or by fraudulently persuading another to give admission ; or by knocking or otherwise pretending a right or lawful occasion to enter :

By admission by an accomplice, in which case the entry is a breaking by both.

6. It is essential to burglary that there should be an entry, which may be made by introducing the hand, foot, finger, or any part of the body into the house or any apartment thereof entered ; or by discharging or throwing any missile, or introducing any instrument or any part thereof into the same ; provided, that the missile or instrument be used as a means of committing or attempting to commit any offense enumerated in section first, and not merely as a means of breaking.

7. A house is not a dwelling house, in respect to burglary, unless it be used as such at the time of the breaking and entry. Provided, however, that a building may continue to be a dwelling house, when not used at the time for sleeping or lodging therein, if it has been previously so used by a person having a settled intention so to use it again, and doing such acts as continue his constructive occupancy.

8. A dwelling house, in respect to burglary, is the dwelling house of the person who occupies the same as such, himself personally, or by the members of his family, guests of his inn, his boarders, visitors, agents or servants, placed or continued therein by his authority. But where such member, guest, boarder, visitor, agent or servant is tenant for a term, or at will, or at sufferance, the dwelling house shall be considered as his.

9. The government, or any public or private corporation, may occupy a dwelling house by others, according to the same rules by which an individual may do so.

10. The breaking necessary to constitute burglary, may be on a different night from the entry.

11. Whoever commits burglary, armed with a dangerous weapon at the time of breaking, or entering, or at any time while he is within the house, where any person, not a party to the burglary is then resident within the dwelling house, is guilty of aggravated burglary, and shall be punished by imprisonment at hard labor, in the discretion of the court, for life or any number of years.

12. Whoever in the night enters the dwelling house of another, even though he commit no breaking to obtain entry, with the intent to commit a felony within the same, where any person, not a party thereto is then resident within such house, such offender being armed with a dangerous weapon at the time of entering, or at any time while he is within such house, or committing an assault therein on any such resident person, or putting him in fear, shall be punished by imprisonment at hard labor not more than twenty years.

13. Where such offender is not so armed, and does not commit such assault or put any such resident person in fear, he shall be subject to punishment by imprisonment at hard labor not more than ten years.

14. Whoever in the daytime commits a felony in any dwelling house, where any inmate, not a party thereto, is within such dwelling house, such offender being armed with a dangerous weapon at the time of entering, or at any time while he is within such house, or committing an assault on any such inmate, or putting him in fear, shall be punished by imprisonment at hard labor not more than ten years.

15. Whoever in the night or day time breaks and enters the dwelling house of another, and commits a felony therein, or with intent to commit a felony therein, though no person be within said dwelling house at the time, shall be punished by imprisonment at hard labor not more than five years.

16. Whoever in the night enters, or breaks and enters, the house of another, not being a dwelling house, or any office, counting room, shop, warehouse, storehouse, workshop, factory or other enclosed and covered building used at the time for the deposit or safe keeping of property, or for the shelter, accommodation or employment therein of persons; or any meeting house, court house, academy or other buildings used for public purposes, the same not being a dwelling house, or any vessel, with intent to commit felony therein, when any person not a party thereto, is within such house, office, counting room, shop, warehouse, storehouse, workshop, factory, meeting house, court house or other building or vessel having any right or authority to be therein, such offender being armed with a dangerous weapon at the time of breaking or entering, or at any time while he is therein, or committing an assault upon any person so therein, or putting him in fear, shall be punished by imprisonment at hard labor not more than twenty years.

17. Where no such person is within such house, building or other structure or vessel at the time of entering or breaking in the night, or where such offender as is mentioned in the preceding section is not so armed and does not commit any such assault or put any such person in fear, he shall be subject to imprisonment at hard labor not more than ten years.

18. Whoever in the daytime enters, or breaks and enters, the house of another, not being a dwelling house, or any house, building or structure described in section sixteen, or any vessel, with intent to commit a felony therein, when any person, not a

party thereto, is therein, having any right or authority to be there, such offender being armed with a dangerous weapon at the time of breaking or entering, or at any time while he is therein, or committing an assault on any such inmate or putting him in fear, shall be punished by imprisonment at hard labor not more than ten years.

19. Where no such person is within the house, building, structure or vessel at the time of entering or breaking in the daytime ; or where such offender as is mentioned in the preceding section is not so armed, and does not commit any such assault or put any such person in fear, he shall be subject to punishment by imprisonment at hard labor not more than five years.

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7. Fear, in what way excited.
8. Degrees.
9. Presumption when robber is armed.
10. Punishment for robbery in the first degree.
11. Punishment for robbery in the second degree.

1. Robbery is the stealing of a thing from the person of another or from his custody in his presence, by force or putting him in fear.

2. In order to constitute robbery, the force must be used, or the fear excited or taken advantage of, to prevent or overcome resistance, or to prevent or hinder the escape of the party robbed, or to prevent the conveying away, securing or guarding the subject of the larceny from being taken, or to induce the party robbed to surrender the same, or to prevent detection of the crime.

3. Though the taking be by force, yet if it be not with intent to steal, it is not robbery.

4. The taking of a thing from another by means of forcibly imprisoning him, or forcibly putting him under personal restraint or duress, until he shall surrender the same is robbery.

5. In order to render the taking through fear, where no violence is used, a robbery, it is requisite that the ground of fear should be adequate, and not merely trivial and frivolous.

6. An adequate cause of fear is such as would, under the same circumstances, cause fear in a person of ordinary firmness of like age, sex and state of health, and induce such a person to

part with property, to avoid the apprehended injury or danger; or such as the taker of the thing believes, or has reason to believe will cause, and such as does in fact cause, such degree of fear.

7. Whether the robber obtains the thing stolen through the influence of fear excited by words, menacing gesture, the presenting a weapon, or other act causing fear, it will equally in either case be robbery.

8. Robbery by one armed with a dangerous weapon with intent, if resisted, to kill, maim, wound or inflict other severe corporal injury upon the person robbed; or where, being so armed, the robber, in committing the offense, wounds, or strikes or inflicts other severe injury upon the person robbed, or any other person, is robbery in the first degree; and all other robbery is such in the second degree.

9. Any person committing a robbery, being armed with a dangerous weapon, shall be presumed to be so armed with the intent specified in the preceding section.

10. Whoever commits robbery in the first degree, shall be punished by imprisonment at hard labor for life or any number of years, in the discretion of the court.

11. Whoever commits robbery in the second degree, shall be punished by imprisonment at hard labor not more than twenty years.

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1. Larceny or theft is the feloniously taking any thing of marketable, saleable, assignable or available value, belonging to or being the property of another.

2. It is enough if the thing taken is of any pecuniary value, or valuable or economical utility, though it be not of any value to sell.

3. In order to be the subject of larceny, a thing must be moveable, or such that it can be removed.

4. Any part of real estate that is moveable, or can be detached, severed, separated or removed from the real estate of which it is a part, may be the subject of larceny.

5. In order to be the subject of larceny, a thing must be the subject of property and possession.

6. Domestic animals of value are the subjects of larceny, though not at the time within the actual keeping or control of the owner, or of any one for him. For instance, estrays and cattle ranging the commons or mountains of the islands.

7. Animals, whether those living in air, or aquatic or amphibious, of species not usually domesticated, are subjects of larceny when in the custody, possession and control of the owner, or of any one for him, and are distinguishable as being, or known by the taker to be, so in the owner's possession, custody or control. For instance, fish in ponds, or particular creeks or portions of the sea, doves in a dove cote.

8. Any writing of value may be the subject of larceny. For instance, a promissory note, bill of exchange or other bill, order, certificate, bond, book of accounts; a deed or any written or printed conveyance of land; any award of the land commission, or other evidence of title to real or personal property; any contract remaining in force; a receipt, discharge, writ or process; any commission conferring a right, privilege, claim or liability upon another; a record or journal of the acts or proceedings of any judicial court, court of impeachment, or of the Legislature, Privy Council or any public corporation; or any record of any public office.

9. Where no one can be benefitted by a writing, and no one has any interest in it or depending upon it, or can be subject to liability by its passing into other hands or being destroyed, it is not a subject of larceny.

10. The value of a writing is not necessarily to be considered to be the amount expressed or imported by the writing itself, but should be determined by its importance, materiality and availability as affecting public or individual interests.

11. In order to be the subject of larceny, a thing must be owned by, or be the property, general or special, of, or belonging to, some one. That is, some one must have a property, general or special, in the thing; or have and be entitled to the possession of the thing.

12. Wrecked property, estrays, and lost property, shall be deemed still in the constructive possession of the owner; and the taking of either of them, with felonious intent, is larceny. But the taking of derelict property is not larceny.

13. It is not necessary in respect to larceny, that it should appear whose property, other than the taker's, the thing is; it is enough that it appear that it is not the taker's, and that it

does not appear to be derelict; and in case of doubt whether a thing is derelict, the presumption is that it is not so.

14. Larceny cannot be committed by the husband from the wife of her property, or by the wife from the husband of his property.

15. Larceny is of four degrees, viz:

(1.) Larceny committed in any custom house, court house, government house, public office, jail, church or meeting house, academy, school house or other public building; or in any office, counting room, storehouse, warehouse, shop, workshop or vessel of another; or in any enclosed and covered building of another; or from the person of another, or from another in his presence; or from the wreck of any vessel of another; and larceny of any part of the cargo, or of any article or articles that were on board of a wrecked or lost vessel of another at the time of the same being wrecked or lost, or during the storm or other disaster occasioning the wreck or loss; and larceny from a house or other building or vessel on fire; and larceny of property at the time of the removal thereof on account of danger and alarm of fire, when such larceny is committed in the night time to the amount of one hundred dollars or more, is larceny in the first degree, and shall be punished by imprisonment at hard labor not more than ten years, and by fine not exceeding twice the value of the property taken.

(2.) When such larceny is committed in the night time to the amount of twenty-five dollars or more, and less than a hundred dollars; or when the same is committed in the day time to the amount of one hundred dollars or more; or other larceny, not described in the first division of this section, to the amount of a hundred dollars or over, it is larceny in the second degree, and shall be punished by imprisonment at hard labor not more than five years, and by a fine not exceeding twice the value of the property stolen. (1860, p. 13.)

(3.) When such larceny is committed in the day time to the amount of more than five or less than a hundred dollars, or other larceny, not described in the first or second division of this section, to the amount of ten dollars or more, and less than a hundred, it is larceny in the third degree, and shall be punished by imprisonment at hard labor not more than two years, and fine not exceeding twice the value of the property stolen.

(4.) All larceny to an amount less than five dollars, and all other larceny, not being in one of the preceding degrees, is such in the fourth degree, and shall be punished by ~~public whipping not exceeding twenty lashes, or~~ imprisonment at hard labor not more than six months: Provided, however, that the punishment by whipping shall never be inflicted on any female.

16. Whoever shall be convicted of three or more larcenies at the same session of any court; or whoever, having been convicted of a larceny, shall be again convicted of a larceny committed after such former conviction, shall receive an additional punishment not exceeding that otherwise provided by law for the offense or offenses of which he is so convicted, by more than one half.

17. That whoever shall steal any neat cattle, horse, mule, sheep, ass, or deer, not exceeding the value of one hundred dollars, shall, upon conviction before any police or district justice, be punished by imprisonment at hard labor not more than two years nor less than one month, in the discretion of the court. (Act of 14th February, 1859—Civil Code p. 426.)

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Compiled Laws p. 586.

CHAPTER XVII.

VIOLATION OF LETTERS AND POSTAL LAWS.

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11. Robbing a mail.
12. Robbing by the use of a dangerous weapon.
13. Attempt to rob.
14. Stealing a mail, or stealing from a mail.
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16. Duties of masters of vessels as to delivery of letters.
17. No letters, newspapers, etc., to be carried outside the mail unless Hawaiian postage is paid.
18. No inter-island letters to be transmitted by mail unless previously stamped.
19. Coasting vessels to have a locked post office box or bag.
20. Forging, counterfeiting, obliteration of stamps.
21. Violation of mail bags.

1. Whoever shall open and read, or cause to be read, any sealed letter, belonging to another, without being authorized so to do, either by the writer of such letter or the person to whom it is addressed, or by law; shall be punished by fine not exceeding fifty dollars, or by imprisonment at hard labor not more than twenty days.

2. If such letter be opened and read by inadvertance or by mistake, as for example, when the letter is addressed to another person of the same name as the one who opens it, such opening and reading is no offense.

3. Whoever shall maliciously publish or circulate the whole or any part of a sealed letter opened as described in the first section of this chapter, without legal authority, and knowing the manner in which it was obtained, shall be punished by fine not exceeding one hundred dollars, or by imprisonment at hard labor not more than thirty days.

4. If property of any assignable value be taken from such letter, it is larceny.

5. Whoever shall take any letter, whether sealed or not, or any writing whatever, from the legal possession of another, without his consent, and shall maliciously publish the same, shall be punished by fine not exceeding one hundred dollars, or by imprisonment at hard labor not more than thirty days.

6. Whoever shall take any letter, whether sealed or not, belonging to another, and detain, secrete, embezzle or destroy the same, shall be punished by fine not exceeding two hundred dollars, or by imprisonment at hard labor not more than sixty days.

7. The above sections apply to persons other than those entrusted with the charge or carrying of mails, employed in any of the post office departments.

8. If any postmaster, collector, clerk or other person, employed in any custom house or post office, or any mail carrier or other person having charge of any mail, shall unlawfully detain or open any letter, packet, bag, or mail of letters, with which he shall be entrusted, or which shall have come to his possession, and which is intended to be conveyed by post; or if any such person shall secrete, embezzle or destroy any letter or packet entrusted to such person as aforesaid and which shall not contain any bill, draft, note or other writing of value, he shall be punished by fine not exceeding three hundred dollars, or by imprisonment at hard labor not more than six months.

9. If any person as aforesaid, shall secrete, embezzle, or destroy any letter, packet, bag or mail of letters with which he shall be entrusted, or which shall have come to his possession, and intended to be conveyed by post, containing any bill of exchange, draft, promissory note, contract, or other writing of value; or if such person shall steal or take away any such bill, draft, note, contract or other writing of value, out of any letter,

packet, bag or mail of letters that shall come to his possession, shall be punished by imprisonment at hard labor not exceeding ten nor less than one year.

10. If any mail carrier or other person having charge of any mail, shall quit and desert the same before such person delivers it into the post office to which it belongs, or into the hands of some person authorized to receive the same, shall be punished by fine not exceeding five hundred dollars, and in default of the payment thereof, by imprisonment at hard labor not more than six months.

11. Whoever shall rob any carrier of any mail of this kingdom, or any other person entrusted therewith, shall be punished by imprisonment at hard labor not exceeding ten, nor less than five years.

12. Whoever in effecting such robbery, shall wound the person having the custody of such mail, or put his life in jeopardy by the use of any dangerous weapon, shall be punished by imprisonment at hard labor for life or any number of years, in the discretion of the court.

13. Whoever shall attempt to rob any mail of this kingdom by assaulting any person having custody thereof, shooting at him, or threatening him with dangerous weapons, shall, though the robbery is not effected, be punished by imprisonment at hard labor not exceeding five nor less than two years.

14. Whoever shall steal any mail, or steal from any mail, or any post office, any letter or packet, shall be punished by imprisonment at hard labor not exceeding five years, nor less than one year.

15. One half of all pecuniary penalties incurred under any of the provisions of this chapter shall, if paid, go to the use of the person informing and prosecuting for the same.

16. No ship or vessel from a foreign port, arriving at any port of these islands where a post office is established, shall be permitted to report, make entry, or break bulk, until the master or commander shall have delivered to the postmaster at such port all letters directed to any person or persons within this kingdom, which, under his care, or within his power, shall be brought in such ship or vessel, except such as are directed to

the owner or consignee of the ship or vessel; and the postmaster to whom such letters shall be delivered, shall pay to said master or commander as remuneration therefor, a sum not exceeding two cents for every letter so delivered. And it shall be the duty of the collector, or other officer of the port, empowered to receive entries of ships or vessels, to require, from every master or commander of such ship or vessel, an oath, or affirmation, purporting that he has delivered all such letters, except as aforesaid. And if any commander or master of any ship or vessel shall break bulk before he shall have complied with the requirements of this article, he shall, on conviction thereof before any court, forfeit for every such offense, a sum not less than one hundred, nor more than five hundred dollars; and in default of payment, his vessel shall be liable to seizure, condemnation and sale, in order to satisfy such penalty. (1860, p. 5, Civil Code, Section 401.)

17. No ship or vessel leaving any port of the Hawaiian Islands, where a post office is established, shall be permitted to carry any letters, newspapers, or other mailable matter, outside the mail, unless the Hawaiian postage on the same shall have been previously paid. And if any commander or master of any ship or vessel shall not comply with the requirements of this section, for every such offense he shall, on conviction thereof, forfeit a sum not less than one hundred, nor exceeding five hundred dollars; and such ship or vessel shall be liable to seizure, condemnation and sale, in order to enforce the payment of such forfeiture. (Civil Code, Section 405.)

18. No inter-island letters shall be transmitted by mail unless previously stamped, and it shall be unlawful for any individual to convey any letter or letters from port to port; Provided, however, that in case of a deficiency of stamps, the postmaster, at the place of mailing, may receive an equivalent in money, and mark such letter "paid," and subscribe his name thereto, and such letters shall be transmitted in due course of mail. Any person conveying any letter or letters in contravention of this section shall be liable to a fine of not less than five or more than fifty dollars, to be recovered before any Police or District Justice, at the suit of the Postmaster General, or any postal agent throughout the kingdom; one-half of which fine shall be

paid to any person informing of the violation of this law. (Civil Code, Section 407, 1864–5, p. 8.)

19. Each coasting vessel shall have, placed in some conspicuous and convenient place, a locked post office box or bag, legibly lettered, and the master of every such vessel shall act as a route agent for the post office; and all letters properly stamped and placed in such box or bag. shall be delivered by the route agent to the nearest postmaster, according to its direction; but the route agent, before delivering, shall deface or obliterate the stamp or stamps on any letters so mailed, on pain of a fine of not less than ten or more than fifty dollars, to be recovered. before any police or district justice; and on a repetition of such offense the license of the vessel commanded by such postal agent shall be liable to be revoked by the Collector General of Customs, after conviction before any police justice, at the complaints of any postal agents. (Civil Code, Sec. 407A, 1864–5, p. 8.)

20. The Postmaster General is hereby authorized to issue and sell on account of his department, postage stamps, of such denominations as the public convenience may require. If any person or persons shall forge or counterfeit any stamp of the post office department, issued by authority of law, or if they shall obliterate the mark of any stamp for the purpose of using the same for a second time, they shall be adjudged guilty of felony, and on conviction thereof, be fined a sum not exceeding five hundred dollars, or imprisoned at hard labor for a term not more than one year, in the discretion of the court. (Civil Code, Section 408.)

21. If any person or persons shall rip, cut, untie, unlock, or in any way open any mail bag, valise, or portmanteau, containing letters or mailable matter of the Hawaiian kingdom, without due authority of the Postmaster General, said person or persons shall, upon conviction thereof, for every such offense, pay a sum of not less than fifty dollars, or more than five hundred dollars; or be imprisoned at hard labor for a period not exceeding two years. or both, in the discretion of the court. (Civil Code, Section 415.)

CHAPTER XVIII.

EMBEZZLEMENT.

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2. Embezzlement by a public officer—Punishment.
3. Other embezzlement—Punishment.
4. Court may mitigate the punishment when the offender is under sixteen years of age.

The protection of property, and all the business intercourse of society is based upon the trust which men repose in others; therefore, the House of Nobles and Representatives do hereby enact:

1. If any person, who is entrusted with, or has the possession, control, custody or keeping of a thing of value of another, by the consent or authority, direct or indirect, of such other, without the consent and against the will of the owner, fraudulently converts or disposes of the same, or attempts so to convert or dispose of the same, to his own use and benefit, or to the use and benefit of another than the owner or person entitled thereto, he is guilty of the embezzlement of such thing.

2. Whoever, being a minister, collector, cashier, clerk or other person employed in the government treasury, or any other branch of the department of finance, or in any other department of the government, is guilty of embezzlement of any money, note, or other effects or property belonging to the government, shall be punished by imprisonment at hard labor for life or any number of years, or by fine not exceeding five times the value of the thing or property embezzled.

3. Whoever is guilty of embezzlement, other than is specified in the preceding section, if it be to the amount of one hundred dollars or more, shall be punished by imprisonment at hard labor not more than ten years, or by fine not exceeding five times the value of the property or thing embezzled; if it be to the amount of twenty dollars and less than one hundred, he shall be

punished by imprisonment at hard labor not more than five years, or by fine not exceeding three hundred dollars; and if it be to an amount less than twenty dollars, he shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding fifty dollars.

4. Where the person convicted of embezzlement is under sixteen years of age, the court shall have the power to mitigate the punishment specified for the offense of which he is guilty, always having due regard to the welfare of the community of which the offender is a member.

CHAPTER XIX.

EXTORTION.

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4. Extortion by threatening to charge or impute deformity or disease.
5. Extortion by threatening to injure property.
6. Extorting signature.
7. Extortion by a public officer.
8. Punishment for extortion in the first degree.
9. Punishment for extortion in the second degree.

1. Extortion is the wresting anything of value from another by duress, menaces, or by any undue exercise of power.

2. Whoever commits extortion by charging or threatening to charge another or any person in whom he is specially interested by reason of marriage, relationship, guardianship, friendship, or other tie, with any crime, is, in case such crime be capital, or subject to punishment by imprisonment for five years or more, guilty of extortion in the first degree; in case it be an offense of a lower grade, he is guilty of extortion in the second degree.

3. In prosecutions under the preceding section, no evidence of the guilt or innocence of the party against whom the extortion is practised, is admissible.

4. Whoever commits extortion by threatening to charge or impute any secret deformity or disease to him or any person in whom he is specially interested as aforesaid, is guilty of extortion in the second degree.

5. Whoever commits extortion by threatening, directly or indirectly, by words, signs or acts, to burn, destroy, waste, deface, or injure his property, real or personal, or that of another in whom he is specially interested, or to do him or such other any malicious injury, is guilty of extortion in the second degree.

6. Whoever by violence, duress, or other threats, as aforesaid, compels or induces another to sign or execute, or to confess or acknowledge the signature or execution of any deed, note, or other writing, which, if voluntarily made, would affect the rights and interests of the maker and signer thereof, with intent to avail himself of such writing, or enable any other person to avail himself thereof, as being valid, shall be subject to the punishment hereinafter prescribed for extortion in the second degree.

7. Whoever, being a public officer of any description, civil, judicial, military, or other, by color of his office, willfully and corruptly extorts from another for his own benefit and profit, any thing of value, knowing that he has not any legal authority or right to exact the same, is guilty of extortion in the second degree.

8. Whoever is guilty of extortion in the first degree, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

9. Whoever is guilty of extortion in the second degree, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding one thousand dollars.

CHAPTER XX.

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3. Fraudulently detaining stolen goods.
4. Receiving part of a thing.
5. Punishment.
6. Common receiver of stolen goods—Punishment.
7. Not necessary to aver or prove the conviction of the thief.

1. The receiving of stolen goods is, in contract or otherwise, the fraudulently taking, accepting of, detaining, keeping, concealing, or disposing of, the goods of another, stolen, embezzled, or illegally extorted by any one, or aiding therein, whether the same were so stolen, embezzled, or so extorted within or without this kingdom.

2. It is not requisite in order to constitute the offense of receiving stolen goods, that the receiver should intend any profit or benefit to himself.

3. Whoever without fraud, obtains possession or control of goods, knowing them to be stolen, and afterwards fraudulently detains, keeps, conceals or disposes of the same, or aids therein, with the intent that the same shall not be restored to the owner, but that the owner shall be deprived and despoiled thereof, or of the benefit thereof, is guilty of the offense of receiving stolen goods.

4. Receiving any specific part of the same thing that is stolen, is receiving stolen goods; as for example, a part of the carcass of a stolen animal, or a piece of a machine, broken in pieces after being stolen.

5. Whoever is guilty of reciving stolen goods to the amount of one hundred dollars or more, shall be punished by imprisonment at hard labor not more than five years, and by a fine not exceeding five hundred dollars; and if it be to an amount less

than one hundred dollars, he shall be punished by imprisonment at hard labor not more than two years, and by fine not exceeding one hundred dollars; Provided, however, if this is the first offense, and the convict shall make satisfaction to the party injured to the full value of the property, he shall not be subject to punishment by imprisonment for such offense. (1868, p. 37.)

6. If any person is convicted of receiving stolen goods, after having been previously convicted of such offense, or is convicted at the same term of the court of three or more distinct acts of receiving stolen goods, he is a common receiver of stolen goods, and shall be punished by imprisonment at hard labor not more than ten years, and by fine not exceeding one thousand dollars.

7. In any prosecution for receiving stolen goods, it shall not be necessary to aver nor on the trial to prove, that the person who stole the goods has been convicted.

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3. Using false weight or measure.
4. Selling unwholesome provisions.
5. Compounding or adulteratiog food, drink, or medicine.
6. Degrees—how determined.
7. Punishment for first degree.
8. Punishment for second degree.
9. Civil action does not exempt from criminal prosecution.

1. Whoever shall designedly, by any false pretense, and with intent to defraud, obtain from another, any money, goods, or other thing of value, is guilty of a gross cheat; for example, the obtaining of money or other property from another under false pretense of being sent for the same by a friend or acquaintance of his; or obtaining money by means of a letter fabricated in the name of another.

2. Whoever shall, by any false pretense, and with intent to defraud, obtain the signature of any person to any written instrument, the false making whereof would be punishable as forgery, is guilty of a gross cheat; for example, by falsely reading a promissory note or other pecuniary obligation, with intent to procure the same to be signed by a person unable to read.

3. Whoever, in the sale or purchase of any merchandise or other property, shall use any false weight or measure; or cheat another by the fraudulent use of any legal weight or measure; as for example, by dexterously sliding a yard stick, or by putting some other thing into a measure partly to fill the same, even though the vendee and vendor be present, is guilty of a gross cheat.

4. Whoever shall knowingly sell any kind of diseased, corrupted, or unwholesome provisions for the food of man, without making the same fully known to the buyer, is guilty of a gross cheat.

5. Whoever shall knowingly compound, prepare, or adulterate any substance intended for food, drink, or medicine for man, with any ingredient or matter so as to render such food, drink, or medicine injurious to health; or knowingly procure such substance to be compounded, prepared, or adulterated, is guilty of a gross cheat.

6. Gross cheats are of two degrees, and the degree is a fact to be determined in each case; and when the degree does not appear by the verdict, record, or decision, the case shall be considered in the second degree.

7. Whoever is guilty of a gross cheat in the first degree, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding five hundred dollars.

8. Whoever is guilty of a gross cheat in the second degree, shall be punished by imprisonment at hard labor not more than sixty days, or by fine not exceeding fifty dollars.

9. No person shall be exempted from criminal prosecution for gross cheating, by reason of the party cheated having a remedy against him by civil action.

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6. Malicious burning in the first degree defined—Punishment.
7, 8. Malicious burning in the second and third degrees defined—Punishment.
9. Burning timber or products of the soil—Punishment.
10. What is a burning.
11. Burning of husband's property by the wife.

1. Arson is a crime of willfully and maliciously burning the dwelling house of another.

2. Whoever willfully and maliciously burns in the night time, the dwelling house of another, in which there is at the time of such burning any occupant or inmate, is guilty of arson in the first degree, and shall be punished by death, or imprisonment at hard labor for life, in the discretion of the court.

3. Whoever willfully and maliciously burns in the day time, the dwelling house of another, is guilty of arson in the second degree, and shall be punished by imprisonment at hard labor for life, or any number of years, in the discretion of the court.

4. A malicious burning, is the offense of burning a thing, whether that of the offender or of another person, with intent to injure another, or without any legal or justifiable motive or object, and with a reckless disregard of the life, or personal safety, property, or legal rights, or interests of another, where the same are obviously, immediately, and imminently endangered by the burning.

5. Where the thing burnt or attempted to be burnt, is that of another than the offender, malice shall be presumed; where it is that of the offender, the malice must be shown.

6. Whoever willfully and maliciously, or fraudulently burns in the night, any building, vessel, or structure whatsoever, whether partly or wholly his own, or that of another, by the burning of which another might be injured, where the buildings, vessels or structures burnt, are, with their contents, of the value of one thousand dollars or more, is guilty of malicious burning in the first degree, and shall be punished by imprisonment for life at hard labor, or any number of years, in the discretion of the court.

7. Where the burning mentioned in the preceding section, is in the day, the offender is guilty of malicious burning in the second degree, and shall be punished by imprisonment at hard labor not more than ten years.

8. Whoever willfully and maliciously, or fraudulently burns, either in the night or day, any building, vessel or structure whatsoever, whether partly or wholly his own or that of another, by the burning of which another might be injured, where the buildings, vessels, or structures burnt, are, with their contents, of the value of five hundred dollars or over, and less than one thousand, is guilty of malicious burning in the second degree, and shall be punished by imprisonment at hard labor not more than ten years.

Where such value is less than five hundred dollars, it is a malicious burning in the third degree, and the offender shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding five hundred dollars, in the discretion of the court.

9. Whoever willfully and maliciously burns any pile or parcel of wood, timber, or lumber, or any field, patch, stack, or parcel of grass, grain, cane, or other vegetable product, whether severed from the soil or not, or any standing trees, brush or underwood, or other standing product of the soil of another, is guilty of a malicious burning in the third degree, and shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding five hundred dollars, in the discretion of the court.

10. It shall be sufficient to constitute a burning, within the meaning of the provisions of this chapter, if any part of the building, structure, or other thing burnt, is on fire, though no part thereof is absolutely consumed.

11. The provisions of this chapter shall apply to a married woman, equally with any other person, though the property burnt or set fire to may belong partly or wholly to her husband.

CHAPTER XXIII.

MALICIOUS INJURIES AND MISCHIEFS.

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4. An act done to assert a right.
5. Trivial injuries.
6. Malicious injury in the first degree defined—Punishment.
7. Second degree defined—Punishment.
8. Third degree defined—Punishment.
9. Injury from dogs.

1. Any injury or offense specified in the next section, or any one similar in kind or character to any of those so specified, maliciously done or caused by any one to the property, right or liberty of another, whereby another may or might be subject to loss, damage or prejudice, or disturbance in any of his rights, liberties or privileges of person or property, is a malicious injury within the meaning of the provisions of this chapter.

2. Malicious injuries are very numerous: for example:

(1.) Maliciously destroying, defacing, injuring or obstructing the use of, or impairing the value or utility of any building, bridge or other structure, public or private:

(2.) Destroying or injuring any tree, bush, vine, plant, crop, fruit or other vegetable product:

(3.) Destroying, removing, concealing or altering any land mark or territorial boundary or division:

(4.) Drawing, letting off, or diverting water from any pond, reservoir, tank, trench, pipe or other conduit, or filling up, stopping or obstructing the same; or preventing or obstructing the use of any well, fountain, spring, reservoir or stream:

(5.) Destroying, scuttling, sinking, putting adrift, stranding or injuring any ship, vessel, boat, canoe or other water craft;

or injuring the sails, rigging, furniture, or any utensil, appurtenance or part of any vessel or water craft.

(6.) Putting up, removing, displacing, disguising or otherwise injuring or rendering useless or deceptive any buoy, beacon, sea or channel mark; or extinguishing the light of any beacon; or exhibiting any false or deceptive light or signal, whereby to deceive navigators or others:

(7.) Destroying, cutting, injuring or impairing the usefulness or value of any fish-net, harness, tackling, vehicle, sugar mill, coffee mill, machine, tool or implement of husbandry or manufacture;

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(8.) Poisoning, spoiling, drawing any deleterious, offensive or injurious fluid or substance with water, or any fluid or substance used as beverage, food or medicine for men or animals:

(9.) Putting auhuhu or other substance deleterious to fish, into any lake, pond, stream or reservoir for the purpose of destroying the fish:

(10.) Killing, mutilating, maiming, wounding, riding, confining, letting loose or injuring horses, cattle or other animals:

(11.) Letting loose any ferocious or dangerous animal; or unjustifiably setting on any dog or any ferocious animal to worry, injure or annoy any person, horse or animal, or willful neglect by the person having charge of any dog or such animal to call him off, or prevent him from worrying, injuring or annoying any person or animal:

(12.) Obstructing any highway or private way, or making pitfalls, holes or excavations therein; or otherwise rendering the same dangerous or inconvenient to persons passing over or along the same:

(13.) Making alarming outcries or noises, or exhibiting hideous and frightful sights in the day or night.

3. To constitute the offense of malicious injury, the injury or misdemeanor must be maliciously done, that is, done without adequate legal justification and with intent to injure, prejudice or put to inconvenience another, or with a reckless disregard to the life, health, property, right or liberty of another, where the same is evidently endangered by the act.

4. An act done in the fair exercise, assertion, maintenance or vindication in good faith of a supposed legal right, where there is any real or apparent ground for supposing such right to exist, and the same is not used as a mere cloak, pretence or occasion for a malicious injury, shall not be punishable as a malicious injury.

5. An injury or mischief that is trivial in its character and consequences and without appreciable damage, prejudice or inconvenience to another and not accompanied with outrage, insult or indignity, shall not be punishable within the provisions of this chapter.

6. Whoever commits a malicious injury endangering the life or personal safety of another, or whereby property to the amount of one thousand dollars or more is destroyed or in danger of being destroyed, is guilty of malicious injury in the first degree, and shall, in case other punishment is not expressly provided by statute, be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

7. Whoever commits a malicious injury, whereby property merely is destroyed or in danger of being destroyed to the amount of one hundred dollars or more, and less than one thousand, is guilty of malicious injury in the second degree, and shall, in case other punishment is not expressly provided by statute, be punished by imprisonment at hard labor not more than one year, or by fine not exceeding five hundred dollars.

8. Whoever commits a malicious injury, whereby property merely is destroyed or in danger of being destroyed to an amount less than one hundred dollars, is guilty of malicious injury in the third degree, and shall, in case other punishment is not expressly provided therefor by statute, be punished by imprisonment at hard labor not more than six months, or by fine not exceeding by twice the amount destroyed or endangered.

9. If any dog shall injure or destroy any sheep or cattle, goats, hogs, fowls, or other property belonging to any person other than the owner of such dog, the owner shall be liable in damages to the person injured, for the value of the property so injured or destroyed; and it shall be the duty of the owner to

confine or destroy such dog, and if he neglect or refuse to do so, he shall, in the event of any further damage being done to the person or property of any person by such dog, in addition to paying the person injured for such damage, pay the costs of the trial, together with a fine of ten dollars, or in default of the payment of such fine, be imprisoned at hard labor for the term of thirty days, and it shall be lawful for any other person to destroy said dog. (Civil Code, Section 1488.)

Repealed by 1884 p. 99

CHAPTER XXIV.

CRUELTY TO ANIMALS.

1. Whoever shall cruelly beat, torment, or inflict suffering upon any horse, ox, mule, or other animal belonging to another, shall be punished by imprisonment at hard labor not more than three months, or by fine not exceeding one hundred dollars. If the animal belong to the offender, he shall be punished by a fine of five dollars for the first offense, and an additional five dollars for every subsequent offense, and in default of the payment of any such fine shall be imprisoned at hard labor not exceeding thirty days.

See 86-21

CHAPTER XXV.

FELONIOUS BRANDING OF CATTLE.

1. Whoever shall willfully and feloniously brand, or otherwise mark, any kine, horse, mule, sheep, goat, or other cattle belonging to another, with his mark, or with the mark of another not the owner of the animal so branded or marked, with the intent to convert it to his own use, or to the use of another, shall be punished by a fine not exceeding one hundred dollars for each kine, horse, mule, sheep, goat, or other cattle thus branded or marked; and in addition to such fine, he shall restore the cattle or the value thereof to the lawful owner. In default of the payment of such fine and the restoration of the cattle or the value thereof, or either, the offender shall be punished by imprisonment at hard labor not more than two years.

CHAPTER XXVI.

FURIOUS AND HEEDLESS RIDING, DRIVING, OR CONDUCTING ANIMALS OR VEHICLES, AND FRIGHTENING ANIMALS.

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3. Driving or leading wild cattle through the street—Punishment.
4. Frightening or exasperating a horse or other animal, endangering personal safety, etc.—Punishment.
5. Additional punishment on repeated conviction.

1. Whoever furiously or heedlessly of the safety of others, rides any horse or other animal, or drives or conducts any vehicle, and thereby imminently endangers the personal safety of any person, shall be punished by a fine not less than five dollars nor exceeding five hundred.

2. Whoever furiously or heedlessly of the safety of others, rides any horse or other animal, or drives or conducts any vehicle, though at the time the personal safety of any person be not endangered thereby, shall be punished by fine not less than five dollars nor exceeding one hundred.

3. Whoever drives, leads, or otherwise conducts any wild bull, bullock, cattle, or other ferocious or dangerous animal in the street of any village, or in any place of public resort, shall, in case the personal safety of any person is thereby imminently endangered, be punished by fine not less than five dollars, nor exceeding five hundred, or in case the personal safety of any person is not so endangered, by a fine not less than five dollars, nor exceeding one hundred.

4. Whoever frightens, exasperates, or animates a horse or other animal, and thereby endangers the personal safety or the property of any person, or of the animal itself, being that of an-

other, shall be punished, in case the personal safety of any person is thereby imminently endangered, by fine not less than five dollars, nor exceeding five hundred: otherwise by fine not less than five dollars nor exceeding one hundred.

5. Whoever is convicted of either of the offenses specified in the preceding sections, committed after a previous conviction and sentence for either of such offenses, shall be punished in addition to the fine imposed, by imprisonment at hard labor not exceeding six months.

1st Sec. not within jurisdiction of District or Police Justice.

CHAPTER XXVII.

PERJURY.

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7. It is not necessary that the false statement be credited.
8. An erroneous statement through mistake.
9. Retraction and correction of false statement.
10. Perjury in the first degree—Punishment.
11. Perjury in the second degree—Punishment.
12. Subornation of perjury.
13. Incompetency of perjurer as a witness, etc.

1. Perjury is willfully, knowingly and falsely stating, verbally or in writing, some material fact on oath, either with or without laying the hand on the bible, where the oath is required by law, or the requiring of it is authorized by law.

2. An assent to, or denial of a fact, is stating a fact, within the meaning of the preceding section. As, for example, by replying yes or no to a question, or by using some other evident sign of assent or dissent.

3. It is requisite to constitute perjury that the oath should be duly administered by one having legal authority to administer the same, either in person or through an interpreter.

4. A material fact in respect to perjury is one that is pertinent to, and affects, or may or might affect the matter in question, as being distinguished from impertinent, idle, irrelevant or insignificant facts.

5. A false statement willfully and knowingly made by a witness or deponent of his belief, recollection, best recollection, knowledge or impression, of a material fact, is perjury, within the meaning of the first section.

6. A statement, though it be literally true, if it is made to convey a false meaning, and is understood in such sense, is perjury, within the meaning of the first section.

7. It is not necessary to perjury that the false statement should be credited or have weight.

8. If a witness make an erroneous statement through mistake, it is not perjury.

9. If a witness having falsely stated a fact, shall, pending the trial or occasion, voluntarily, and without solicitation, question or suggestion leading thereto, retract and correct such false statement in time to prevent prejudice or injury therefrom, he shall not be subject to prosecution or punishment therefor.

10. Whoever commits perjury on a complaint or proceeding against or trial of any one for a crime subject to capital punishment, evidently tending to charge him with, or convict him of such crime, in case he shall be charged with or convicted of the same, is guilty of perjury in the first degree, and shall be punished by imprisonment at hard labor for life or any number of years, in the discretion of the court.

11. Whoever commits any perjury of a character differing from that defined in the preceding section, is guilty of perjury in the second degree, and shall be punished by imprisonment at hard labor not more than ten years.

12. Subornation of perjury is the willfully and corruptly procuring another to commit perjury; and whoever is guilty of the same shall be subject to the punishment above prescribed for perjury in the same degree.

13. Whoever shall be convicted of perjury in either degree, or subornation of perjury, shall be rendered incompetent as a witness, and subject to civil disqualification.

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CHAPTER XXVIII.

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6. Prosecution may be joint or several.
7. Punishment not imposed for conspiracy and offense both.
8. Trivial offense.
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10. Second degree—Punishment.

1. A conspiracy is a malicious or fraudulent combination or mutual undertaking or concerting together of two or more, to commit any offense or instigate any one thereto, or charge any one therewith; or to do what plainly and directly tends to excite or occasion offense, or what is obviously and directly wrongfully injurious to another:

For instance—

A confederacy to commit murder, robbery, theft, burglary or any other offense provided for in the criminal code; to prevent, obstruct, defeat or pervert the course of justice, by suborning a witness, tampering with jurors, or the like offenses:

To groundlessly accuse any one of, and cause him to be prosecuted for, an offense:

To charge any one with an offense, with the intent and for the purpose of extorting money from him:

To falsely charge one with being the father of an illegitimate child:

To cheat another by means of false tokens and pretenses:

To manufacture a spurious article for the purpose of defrauding whomsoever the same can be sold to:

To destroy a will and thereby prejudice the devisees:

To prevent another, by indirect and sinister means, from exercising his trade, and to impoverish him.

2. Any person knowingly acceding to and joining in a conspiracy after the same is formed, is a party thereto, no less than the one who originally takes part in forming the same.

3. It is not requisite that the act agreed upon should be done or attempted in pursuance of the conspiracy; the conspiracy itself constitutes the offense.

4. The act of each party to a conspiracy, in pursuance thereof, is the act of all.

5. Husband and wife cannot by themselves, without others, be guilty of a conspiracy, and the acts or confessions of either are not evidence against the other in a prosecution for conspiracy.

6. Conspirators may be tried jointly or severally. But to prevent oppression by joining parties, and thus depriving some of the testimony of others, it is provided that in the trial of any one for a conspiracy, another, charged as a co-conspirator, may be a witness, and in such case the two may be separately tried, though joined in the indictment.

7. Where one is convicted of any offense, he is not liable thereafter to be tried for or convicted of a conspiracy to commit the same; and if a conspiracy to commit an offense and the commission of the same be charged in the same indictment, the defendant is liable to be sentenced for one only.

8. On a prosecution for conspiracy, if the jury find, or the magistrate having jurisdiction of the fact, consider the offense to be trivial, the defendant shall be discharged, with or without costs, in the discretion of the court.

9. Conspiracy to commit, or to instigate to the commission of a felony; or to charge any one with felony; or to prevent, obstruct, defeat, or pervert the course of justice; or to forge or counterfeit or cheat to an amount exceeding one hundred dollars, is in the first degree, and shall be punished by imprisonment at hard labor not more than ten years, or by fine not exceeding one thousand dollars, in the discretion of the court.

10. Conspiracy not appearing to be in the first degree, is in the second, and shall be punished by imprisonment at hard labor not exceeding two years, or by fine not exceeding two hundred dollars, in the discretion of the court.

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CHAPTER XXIX.

OBSTRUCTING AND PERVERTING THE COURSE OF JUSTICE.

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1. Whoever being lawfully made prisoner, or lawfully detained, on conviction or charge of any offense, or as a witness in any capital case, escapes from such imprisonment or detention against the will of the officer having him in custody, shall, in case the offense be capital, or punishable by imprisonment for life, or for ten years or more, be punished therefor by imprisonment at hard labor not more than three years, or by fine not exceeding five hundred dollars.

2. In case of such escape from imprisonment on conviction or charge of, or as a witness in respect to, any offense otherwise punishable than as described in the preceding section, the person so escaping shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

3. Whoever, being a prisoner lawfully detained in the custody of any officer or other person authorized by law to detain such prisoner, in any other case than those provided for in the preceding sections, escapes, shall be punished by imprisonment at hard labor not more than three months, and by fine not exceeding ten dollars.

4. Whoever rescues any prisoner or person lawfully held in custody on conviction or charge of any offense, or as a witness on a criminal charge; or aids or assists any such prisoner, witness or person so held in custody in his design or endeavor to escape, whether his escape be or be not effected or attempted; or conveys into any fort or other prison, any disguise, tool, weapon, or other thing adapted to facilitate, and with intent to facilitate the escape therefrom of any such prisoner, witness or other person, shall, in case the aforesaid offense or criminal charge be capital, or punishable by imprisonment for life, or for ten years or more, be punished by imprisonment at hard labor not more than three years, and by fine not exceeding five hundred dollars: In any other case, he shall be punished by imprisonment at hard labor not more than one year, and by fine not exceeding one hundred dollars.

5. Whoever aids any prisoner lawfully imprisoned for any other cause than those mentioned in the preceding section, to escape from the custody of an officer or other person authorized by law to detain such prisoner, shall be punished by imprisonment not more than six months, and by fine not exceeding fifty dollars.

6. Any jailor or other officer who voluntarily suffers any prisoner in his custody upon conviction of or charged with any offense, to escape, shall suffer like punishment and penalties as the prisoner so suffered to escape was sentenced to, or would be liable to suffer upon conviction for the crime or offense wherewith he stood charged.

7. Any jailor or other officer who, through negligence, suffers any prisoner in his custody, upon conviction of or charged with any offense, to escape; or who willfully refuses to receive into his custody any prisoner lawfully committed thereto, shall be punished by imprisonment at hard labor not exceeding two years, or by fine not exceeding five hundred dollars.

8. Any officer authorized by law to serve or execute any lawful process to him directed, delivered or offered, requiring him to appehend or confine any person convicted of or charged with an offense, who willfully and corruptly refuses, neglects, or delays to serve the same, whereby such person shall avoid arrest and go at large, shall be punished by imprisonment at hard labor not more than one year, or fine not exceeding three hundred dollars.

9. Any person required by the marshal, or by any sheriff, deputy sheriff or constable to assist him, in case of emergency, in the execution of his office in any criminal case, or in the preservation of the peace, or the apprehending or securing of any person for a breach of the peace, who refuses or neglects to render the assistance so required, shall be punished by fine not exceeding fifty dollars.

10. Whoever rescues a thing that is under legal seizure or detention, with intent to defeat such seizure or detention, or impede, oppose, or defeat the process whereby the thing is seized or detained, shall be punished by fine not exceeding five hundred dollars.

11. Whoever falsely assumes to be a district justice, marshal, sheriff, deputy sheriff, constable or other officer of the government, and takes upon himself to act as such, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars. 1870-p 60

12. Whoever, having knowledge of the commission of any offense punishable with death, or by imprisonment for life, shall give or receive any money, service, or other gratuity or reward, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding five hundred dollars. Where the offense is not punishable as aforesaid, he shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

13. Whoever, willfully intending to prevent or obstruct the course of justice, shall give any gratuity or reward, or make any promise thereof, express or implied, that any one shall evade giving his testimony, or shall destroy, conceal or suppress any

deposition or other legal evidence in any suit or proceeding, criminal or civil, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding five hundred dollars.

14. Whoever willfully obstructs or attempts to obstruct the public legislation, or the due administration of the law, by threats of violence against, or intimidation of, or endeavoring to intimidate any member of the privy council, legislature, or any legislative, judicial, executive or other officer charged with any duty in the administration, enforcement or execution of the law, shall be punished by imprisonment not more than one year, or by fine not exceeding five hundred dollars.

15. Whoever is guilty of corruptly influencing or attempting to corruptly influence any one serving or summoned as a juryman, in favor of or against any party to any suit or matter pending at the time, or that may thereafter come before such juryman for his verdict or decision, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding five hundred dollars.

16. Whoever corruptly gives or promises to any executive, legislative or judicial officer, or to any master in chancery, juror, appraiser, referee, arbitrator or umpire, any gift, gratuity, service or benefit, with intent to influence his vote, judgment, opinion, decision or other acts as such in any case, question, proceeding or matter pending, or that may by law come or be brought before him in his capacity as aforesaid, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars.

17. Every executive, legislative, judicial or civil officer, or any master in chancery, or any person acting or summoned as a juror; or any appraiser, referee, arbitrator or umpire, who corruptly accepts any gift, gratuity, beneficial service, or act or promise of either, under an agreement, or with an understanding that he shall in the exercise of any function in his capacity as aforesaid, vote, decide, or act in any particular manner in any cause, question, proceeding or matter pending or that may by law come or be brought before him, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

18. Whoever, after trial by jury, is adjudged guilty of contempt of any judicial court, whether by open resistance to the process or proceedings thereof, or of any judge or justice thereof in the lawful exercise of his judicial functions; or by insulting, contemptuous, contumelious, disrespectful or disorderly language, behavior or act, or breach of the peace, noise or other disturbance in the presence or hearing thereof when in session; or by willful disobedience or neglect of any lawful process or order; or by refusing to be sworn as a witness, or when sworn, to answer any legal and proper interrogatories; or by publishing animadversions on the evidence or proceedings in a pending trial tending to prejudice the public respecting the same, and to obstruct and prevent the administration of justice; or by knowingly publishing an unfair report of the proceedings of a court, or malicious invectives against a court or jury tending to bring such court or jury, or the administration of justice into ridicule, contempt, discredit or odium, shall be punished by imprisonment at hard labor not exceeding two years, or by fine not exceeding five hundred dollars: Provided, however, that every judicial tribunal, acting as such, and every magistrate acting by authority of law in a judicial capacity, may summarily punish persons guilty of contempt, as follows: (Civil Code chap. 24.)

1. The Supreme Court, by imprisonment at hard labor not more than three months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

2. Any circuit court, or any court of probate, by imprisonment at hard labor not more than two months, or by fine not exceeding one hundred dollars.

3. Any circuit judge, or police justice, by imprisonment at hard labor not more than thirty days, or by fine not exceeding fifty dollars.

4. Any district justice, coroner, or other person acting in a judicial capacity by authority from any court of record, by imprisonment at hard labor not more than ten days, or by fine not exceeding ten dollars.

19. Persons punished according to the provisions of this chapter, shall also be liable to indictment for the same miscon-

duct, if it be an indictable offense; but the court before which a conviction is had on the indictment, in passing sentence, shall take into consideration the punishment before inflicted.

20. When the contempt consists in the omission or refusal to perform an act which is yet in the power of the party to perform, he may be imprisoned until he have performed it, and in that case the act shall be specified in the warrant of commitment.

CHAPTER XXX.

FORGERY.

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1. Forgery is the fraudulent making or altering a writing, with the intent to deceive another and prejudice him in some right.

2. A writing comprehends manuscript, print, inscriptions, figures, marks, and other modes of indicating, upon paper or other material substance, words, sense, or meaning.

3. The making of the initials of one's name or a mark as his signature to a promissory note or other document; or the stamping of a signature, with intent to defraud, is as much a forgery as if the party had signed that person's name.

4. An intent to deceive is essential to forgery, but it is not essential that any one should in fact be thereby deceived.

5. In order to constitute forgery, the writing must, as made or altered, purport to be the writing of another party than the person making or altering the same; except in the case of an alteration by the maker of a writing, in which others have a property or direct interest.

6. It is not necessary, in order to constitute a forgery. that there should really be any such other person or party as the writing purports. For example, the drawing a bill of exchange in the name of a fictitious person is as much a forgery as if it had been made in the name of one who was known to exist, and to whom credit was due.

7. To constitute forgery, it is not essential that the forged instrument should be so made, that if genuine, it would be valid. For example, it is forgery to fabricate any false instrument on unstamped paper, which by law requires a stamp, or to make a false will of a living person, notwithstanding it can have no validity as a will until his death : Provided, however. that it is essential to constitute forgery, that the false instrument should carry on its face the semblance of that for which it was counterfeited, and that it should not be obviously invalid, void, and of no effect.

8. The deceptive and frudulently making of one's own signature, as being that of another, the writing being such that others might be thereby deceived and defrauded or prejudiced, is forgery.

9. Whoever is guilty of the forgery of any deed of conveyance, lease, promissory note, bill of exchange, due bill, check, order or request to pay money, or other writing whatever, to the amount, or involving or affecting the amount, or value of one hundred dollars or more, shall be punished by imprisonment at hard labor not more than ten years. and by fine not exceeding five hundred dollars.

10. Whoever is guilty of the forgery of any writing to an amount less than that specified in the preceding section, shall be punished by imprisonment at hard labor not more than five years, and by fine not exceeding three hundred dollars.

11. Whoever; knowing a writing to be false or forged, shall deceptively offer, pass, negotiate, assign or transfer the same,

or put the same into circulation, as being true and genuine according to its apparent purport, shall be subject to the punishment above prescribed for the forgery of such writing.

12. The cancelling, destroying, secreting, or obliterating a writing, being one's own or that of another, in which any other person has any property or direct interest, with intent thereby to defraud any person, or prejudice any one in his person, property, rights or interests, and whereby any person might be defrauded or so prejudiced, shall be subject to the penalty of forgery of the like writing: For example, fraudulently destroying a writing previously executed and delivered by the party destroying the same, or destroying a writing by tearing off or abstracting a part thereof.

13. The knowingly and fraudulently filling up a signed blank otherwise than the party filling up the same is authorized by the signer or other person empowered thereto, to fill up the same, with intent, in either case, to defraud or prejudice such signer or any other person, and where such signer or another might be thereby defrauded or prejudiced is subject to the penalty for forgery of a like writing. But this provision shall not affect the validity of such writing as against the parties liable thereon. The knowingly and fraudulently uttering such writing shall be subject to the penalty for uttering a like forged writing.

14. The false and fraudulent alteration of a writing made by the party altering the same, and previously passed or delivered, the alteration being such as may tend to deceive and defraud any person, is equivalent to forgery of such writing, and shall be subject to the like punishment.

15. The fraudulently and deceitfully procuring a signature to, or authentication of, a writing, under pretence that it is another and different writing, whereby the person signing or authenticating the same is deceived, and signs or authenticates the same as and for such other and different writing, shall be subject to the penalty for forgery of a like writing or authentication; and the knowingly and fraudulently uttering such writing or authentication shall be subject to the same penalty.

16. Any officer or magistrate, authorized by law to take any testimony, declaration or statement on oath, who, knowingly and

corruptly, falsely takes or certifies any testimony, declaration or statement, as to the whole or in some material part, shall be subject to the penalty for forgery of like testimony, declaration, statement or certificate; and the knowingly and fraudulently uttering the same shall be subject to the same penalty.

17. Any registrar of conveyances, notary public or other officer authorized by law to take acknowledgment or proof of any deed of conveyance of real estate, or any other instrument, in order to entitle the same to be recorded, or to be produced in evidence, or in order to give the same validity, who falsely and corruptly certifies that any such deed was acknowledged to him by any party thereto, or that proof was given to him of the genuineness thereof, shall be subject to the penalty for forgery of a certificate of like description; and the knowingly and fraudulently uttering any such false certificate shall be subject to the same penalty.

18. Any registrar of deeds, clerk of any court, or any other officer or person having the legal custody of any public record, who corruptly and falsely, (in or as to any material point,) makes or certifies any record or purported copy thereof, shall be subject to the penalty for the forgery of a like record, copy or certificate; and the knowingly and fraudulently uttering of such false record or certificate shall be subject to the same penalty.

19. Whoever, after having been convicted of any of the offenses provided against in this chapter, is thereafter convicted of the same, or any other of the said offenses, committed after his being so convicted, shall be subject to an additional like punishment, not exceeding by more than one half, the maximum punishment provided by law for the offense of which he is last so convicted.

CHAPTER XXXI.

COUNTERFEITING OF COINS.

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SECTION 1. Counterfeiting defined.
2. Diminishing coin.
3. Washing or coloring coin.
4. Uttering defined.
5. Coin defined.
6. Punishment for counterfeiting; and for uttering in confederacy with the counterfeiter.
7. Punishment for uttering or having ten or more pieces in possession with intent to utter.
8. Punishment where the number of pieces in possession is less than ten.
9. Punishment for uttering where the coin was received as genuine by the utterer.
10. Punishment for making implements for counterfeiting.
11. Punishment for second offense.

1. Counterfeiting is the fraudulent making, or assisting in the making of a resemblance of coin, of less intrinsic value than the genuine coin of which it is a resemblance, with the intent that the same shall be uttered, or put in circulation.

2. Whoever shall fraudulently diminish the coin by clipping, filing, boring or abrading it, or otherwise taking away a part of any true and genuine coin, and substituting a metal or substance of less intrinsic value in place of the part so taken away, or without such substitution with the intent that the same so diminished in quality or intrinsic value, shall thereupon be uttered as and for true and genuine coin, is guilty of counterfeiting, within the meaning of the provisions of this chapter.

3. Whoever shall add to true and genuine coin, by washing, coloring or otherwise, any metal or substance so as to make it a resemblance of coin of a greater intrinsic value, with the intent that it shall thereupon be uttered as and for true and genuine coin, is guilty of counterfeiting, within the meaning of the provisions of this chapter.

4. The fraudulently putting counterfeit coin into circulation; passing it, or tendering it, or offering to pass it, as being true and genuine, or aiding therein, knowing the same to be counterfeit, is uttering the same; so also the selling, passing, delivery or parting with counterfeit coin as such; with the intent that the same shall be, or with sufficient ground to believe that the same will be thereupon passed, tendered, or offered to be passed as true and genuine, is uttering the same.

5. The term coin, or true and genuine coin, as used in this chapter, includes only gold or silver money, or money of which gold or silver, or both, are the principal constituent parts, current by law or usage.

6. Whoever is guilty of counterfeiting, or of uttering any counterfeit coin, being in confederacy with the counterfeiter, or being himself the counterfeiter thereof, shall be punished by imprisonment at hard labor for life, or any number of years, in the discretion of the court.

7. Whoever is guilty of uttering any counterfeit coin; or of having in his possession ten or more pieces of counterfeit coin, knowing the same to be counterfeit, with the intent to utter the same as true and genuine, shall be punished by imprisonment at hard labor not more than twenty years, or by fine not exceeding one thousand dollars, and imprisonment at hard labor not more than five years.

8. Whoever is guilty of having in his possession any number of pieces of counterfeit coin less than ten, knowing the same to be counterfeit, with the intent to utter the same as true and genuine, shall be punished by imprisonment at hard labor not more than ten years, or by fine not exceeding five hundred dollars, and imprisonment at hard labor not more than two years.

9. Whoever utters counterfeit coin, knowing the same to be such, having received the same in good faith as true and genuine, upon legal and valid consideration, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

10. Whoever knowingly casts, stamps, makes, or mends, or knowingly has in his possession any mould, pattern, die or other tool or machine adapted and designed for counterfeiting coin,

with intent to use or employ the same, or cause or permit the same to be used or employed, for counterfeiting coin, shall be punished by imprisonment at hard labor not more than twenty years, or by fine not exceeding one thousand dollars, and imprisonment at hard labor not more than five years.

11. Whoever, having been once convicted of any of the offenses provided against in this chapter, shall thereafter be convicted of any or either of such offenses committed after such former conviction, shall be punished by an additional like punishment, not exceeding by more than one half, the punishment for the offense of which he is last so convicted.

CHAPTER XXXII.

LIBEL.

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2. Making of a libel defined.
3. Publishing defined.
4. Malice.
5. Truth may be given in evidence.
6. Degrees of making and publishing—how determined.
7. Punishment for making or publishing, in the first degree.
8. Punishment for second degree.
9. Libelling the dead.
10. Libelling a body of persons.
11. Privilege of public officers to publish.
12. Privilege of a witness.
13. Privilege of parties to a suit and counsel.

1. A libel is a publication in writing, print, or by a picture, statue, sign, or a representation other than by words merely spoken which directly tend to injure the fame, reputation or good name of another person, and to bring him into disgrace, abhorrence, odium, hatred, contempt or ridicule, or to cause him to be excluded from society.

2. The making of a libel is the writing, printing, devising, or in any way forming the same; or aiding or assisting therein, with the intent in either case, that it shall be published. As, for example, the dictating or repeating it to another to write, or writing on such dictation.

3. The publishing of a libel is the maliciously putting of it into circulation, or the promulgating, exhibiting or distributing of it for the purpose of making it known to others; and thereby in fact making it known to others; or aiding or assisting therein, or the causing or promoting thereof.

4. Malice is shown, in respect to libel, by making a publication or communicating it to others, willfully and purposely to the prejudice and injury of another. Hatred or ill will towards the party injured is not essential to libel.

5. In every prosecution for writing or publishing a libel, the defendant may give in evidence, in his defence upon the trial, the truth of the matter contained in the publication charged to be libellous: Provided, however, that such evidence shall not be deemed a justification, unless it shall be further made to appear on the trial that the matter was published with good motives and for justifiable ends.

6. The offense of making, as also that of publishing a libel, is of two degrees, and the degree is to be found by the jury, or determined by the court or magistrate authorized to decide on the facts; and so also the degree is to be determined by the court before which proceedings are had, where the facts charged are admitted by plea or otherwise.

7. Whoever is guilty of the offense of making or publishing a libel in the first degree, shall be punished by imprisonment at hard labor not more than six months, or by fine not exceeding five hundred dollars, in the discretion of the court.

8. Whoever is guilty of the offense of making or publishing a libel in the second degree, shall be punished by imprisonment at hard labor not more than one month, and fine not exceeding fifteen dollars, in the discretion of the court.

9. A libel on the dead is subject to a like punishment as one on the living, where the same is malicious in respect to persons living, and defamatory of, or an outrage against, or an injury to, persons living, and is intended so to be by the maker or publisher.

10. A libel may be of a body, board, class, society or association of individuals, public or private, no less than of one or more persons individually.

11. Every public officer, and any board or body of persons having legal jurisdiction and cognizance of a matter, is privileged in writing, printing or publishing in good faith, and in the usual or in due course of proceedings, any thing, the writing, printing or publishing of which pertains to the legal exercise of his functions and legal discharge of his duty as such. For example, judges are privileged in what concerns the due administration of justice, and juries in rendering their verdicts.

12. Any person giving testimony or making statements under

an oath, is not chargeable with libel for what he testifies relative to the subject matter in respect to which his testimony is required, or in pertinent reply to the interrogatories on which he is examined.

13. A person shall not be subject to the punishment for libel, for anything pertinent to the subject matter of consideration or inquiry, in good faith and on probable grounds, written, or printed, or published by him in the usual manner, or in due course of proceedings, as a party, counsel, agent, guardian or representative of, or in behalf of a party, or of the public, in any prosecution, suit, petition, complaint or memorial, pending or about to be brought before any court, jury, arbitrator, officer, person, board, or body, having according to law or the agreement of parties, authority to proceed therein.

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CHAPTER XXXIII.

AFFRAY.

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SECTION 1. Affray defined.
2. Two kinds of affrays.
3. An aggravated affray.
4. Impending violence.
5. Punishment for an aggravated affray.
6. Punishment for an affray not aggravated.

1. An affray is the fighting of two or more persons in any public place. (1864, p. 16.)

2. Affrays are of two kinds, viz: those which are aggravated, and those which are not aggravated.

3. An affray having a direct tendency to some high crime or misdemeanor, or tending to interfere with and disturb the course of legislation, or the administration or execution of the laws, or with the legal rights of others, is an aggravated affray. So also an affray in the presence of the King and Council, the House of Nobles and Representatives, or either of them, or of a court of justice while either is in session; or in a church or chapel during a religious service; or the fighting with dangerous weapons, to the terror of the King's subjects, or of the people, is an aggravated affray.

4. Mere quarrelsome words do not amount to an affray; but if by reason of the parties being armed, or other apparent imminent violence there be good cause of terror, it is an affray though there be no actual violence.

5. Whoever is guilty of being a party concerned in an aggravated affray, shall be punished by imprisonment at hard labor not more than six months, or by fine not exceeding three hundred dollars.

6. Whoever is guilty of being a party concerned in an affray, the same not appearing to be an aggravated affray, shall be punished by imprisonment at hard labor not more than two months, or by fine not exceeding fifteen dollars.

CHAPTER XXXIV.

DRUNKENNESS—BLASPHEMY—PROFANITY.

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SECTION 1. Drunkenness—Punishment.
2. Blasphemy—Punishment.
3. Profanity—Punishment.

1. Whoever is found drunk in any street, road, or other public place, from the voluntary use of any intoxicating liquor, shall, on the first conviction for such offense, be punished by a fine not exceeding six dollars, and on any conviction for any like offense committed after the first conviction by a fine not exceeding twelve dollars, or by imprisonment at hard labor not more than three months; but no prosecution for such offense shall be sustained, unless it shall be commenced within six months after the commission thereof. (1860, p. 13.)

2. Whoever blasphemes the holy name of God, by denying, cursing, or contumeliously reproaching God, His creation, government, or final judging of the world; or by cursing or contumeliously reproaching Jesus Christ or the Holy Ghost; or by cursing or contumeliously reproaching the holy word of God, contained in the holy scriptures, or exposing them to contempt or ridicule, shall be punished by imprisonment at hard labor not more than one year, or by fine not exceeding one hundred dollars.

3. Whoever, having arrived at the age of discretion, profanely curses or swears, shall be punished by a fine from one to six dollars; but no prosecution for such offense shall be sustained, unless it shall be commenced within thirty days after the commission of the offense.

CHAPTER XXXV.

DISTURBING RELIGIOUS WORSHIP—VIOLATING THE SABBATH.

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SECTION 1. Disturbing religious worship—Punishment.
2. Violating the Sabbath—Punishment.
3. Entertaining persons not strangers on the Lord's Day.
4. Civil process executed on the Lord's Day void.
5. Public officers to inform of offenses.
6. The Lord's Day defined.

1. Whoever willfully interrupts or disturbs any religious assembly or assembly for religious worship, whether such offender commit such offense within or without the place of assembly, and whether such offense be committed on the Lord's day or at any other time, shall be punished by imprisonment at hard labor not more than thirty days, or by fine not exceeding fifteen dollars, in the discretion of the court.

2. The Lord's day is *taboo:* All worldly business, amusements and recreation are forbidden on that day; and whoever shall keep open his shop, store, warehouse, or workshop, or shall do any manner of labor, business or work except only works of necessity and charity, or be present at any dancing, public amusement, show or entertainment, or take part in any game, sport or play on the Lord's day, shall be punished by fine not exceeding ten dollars.

3. Whoever, being a hotel, inn, victualling house, bowling alley or billiard table keeper, or a retailer of spirituous liquors or other person keeping a house of public entertainment, who shall entertain any persons, not being travelers, strangers or lodgers, in his house on the Lord's day, or shall suffer any person on said day to abide or remain in his house or in any building or place appertaining thereto, drinking or spending their time in games, idly or at play, or in doing any secular business, shall be punished by a fine not exceeding ten dollars for each person so entertained, or suffered to abide or remain; and every

person so abiding or drinking shall be punished by a fine not exceeding five dollars.

4. No person shall serve or execute any civil process on the Lord's day; and any such service or execution shall be void.

5. All marshals, sheriffs, constables and other public officers, shall inquire into, and inform of all offenses in violation of the provisions of this chapter, and shall cause the same to be carried into effect.

6. The Lord's day, within the meaning of the provisions of this chapter, is the first day of the week, and includes the time between the midnight preceding and the midnight following said day.

CHAPTER XXXVI.

COMMON NUISANCES.

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SECTION 1. Common nuisance defined—Examples.
2. Trivial annoyance.
3. Annoyance to particular persons.
4. Obstructing a highway or public place, etc.
5. Reasonable use of a highway.
6. Letting off fireworks.
7. Obscene publications.
8. Degrees—how determined.
9. Punishment for first degree.
10. Punishment for second degree.
11. Forfeiture of lease of house if a bawdy houses.
12. Magistrate may issue search warrant for, and destroy obscene books, etc. Additional Laws 1890-p 9

1. The offense of common nuisance is the endangering of the public personal safety or health, or doing, causing, or promoting, maintaining or continuing what is offensive, or annoying and vexatious, or plainly hurtful to the public, or is a public outrage against common decency or common morality, or tends plainly and directly to the corruption of the morals, honesty and good habits of the people, the same being without authority or justification by law.

As, for example, the carrying on a trade, manufacture or business in places so situated that others indiscriminately, who reside in the vicinity, or pass a highway or public place, or resort to a school house, meeting house or any other place of legal and usual resort or assembly, are liable to be thereby injured, annoyed, disturbed or endangered by deleterious exhalations, noisome vapors, hideous, alarming or disgusting sights, intolerable noise, or otherwise:

By spreading or endangering the spreading of the small pox, or other infectious disease; by carrying an infected person, or causing him to pass through a frequented street; by opening a hospital or pest house so as to endanger neighbors or the passers by in a frequented street, or otherwise:

Making or storing gunpowder in or near a populous, or public or frequented place, without authority therefor, or the otherwise making or storing the same contrary to law :

Making loud and troublesome noises by night :

Keeping animals that disturb the neighborhood by night :

Permitting ferocious or dangerous animals to go abroad :

Keeping a bawdy house :

Open lewdness or lascivious behavior, or indecent exposure :

Keeping a common gambling house :

Keeping a disorderly house, to the public disturbance and annoyance.

2. Occasioning a groundless fear or merely a trivial annoyance or inconvenience is not a common nuisance. Whether the act or thing is really so hurtful or prejudicial to others as to render it a common nuisance, is a question of fact to be determined by the jury, court or magistrate called to pass upon the same.

3. Where only a few persons, of many who are equally exposed, are, owing to their peculiarity of temperament, or to infirmity, annoyed by an act or thing, the same is not a nuisance.

As where the noise of a tinman's shop annoys but a few of many persons equally within hearing.

4. Obstructing a highway, channel, entrance to a harbor, harbor, town way, navigable steam, or public place, without just cause, is a common nuisance.

As by digging a ditch, laying logs, erecting a gate or placing any other impediment in a highway :

By leaving carts or other vehicles standing in the highway an unreasonable time :

By using the highway as a timber yard, or a yard to a storehouse, or as a place to dry hides :

By erecting or maintaining a building, fence or structure within the limits of a highway or a public place :

By overflowing a highway ;

By rapid or unskillful driving, or driving an unmanageable team on the highway and thereby endangering life :

By tying horses or other animals in the public streets for the purpose of grazing.

5. Reasonable use of a highway as such is not a common nuisance: As, for example, unloading wood to put the same into a house standing near the highway, if it does not occupy an unreasonable portion of the highway, and is not left for an unseasonable, or for an unreasonable time.

6. The firing, letting off or throwing of any rockets, squibs, crackers, or other fireworks in or near to frequented public highways or places of common resort, or the dwellings of others, or otherwise, to the annoyance and endangering of persons, or the endangering the destruction of or injury to property, is a common nuisance, except the same are fired, let off or thrown by license of the Governor, or in his absence, of the police justice of the town, and in conformity with such license.

7. The importing, printing, publishing, selling, offering for sale, putting into circulation, distributing, lending, exhibiting publicly, or introducing into any family, school or place of education, any obscene picture, or pamphlet, sheet or other thing containing obscene language, obscene prints, figures, descriptions or representations, manifestly tending to the corruption of the morals of youth, or of morals generally; or buying, procuring, receiving or having in possession, any such picture, book, pamphlet, sheet or other thing, with intent to sell, circulate, distribute, lend, or exhibit the same, or to introduce the same into any family, school or place of education, is a common nuisance.

8. The offense of common nuisance is of two degrees, and the degree is to be found by the jury, or determined by the court or magistrate authorized to decide on the facts; and so also the degree is to be determined by the court before which proceedings are had, where the facts charged are admitted by plea or otherwise.

9. Whoever is guilty of the offense of common nuisance in the first degree, for which punishment is not otherwise expressly provided by statute, shall be punished by imprisonment at hard labor not more than six months, or by fine not exceeding five hundred dollars.

10. Whoever is guilty of the offense of common nuisance in the second degree, for which punishment is not otherwise expressly provided by statute, shall be punished by imprison-

ment at hard labor not more than two months, or by fine not exceeding twenty-five dollars.

11. Where the lessee of a building makes the same a bawdy house, the lease or contract for letting the same shall at the option of the lessor become void, and the lessor shall thereupon have a like remedy for recovering possession, as against a tenant holding over after the expiration of his term; and moreover shall be entitled to rent for the whole term.

12. Any justice of a police or district court, may issue a search warrant for the purpose of searching for any obscene books, pamphlets, pictures, or other things containing obscene language, prints, pictures, figures, or descriptions manifestly tending to the corruption of the morals of youth; and all such things as may be found by any officer in executing such warrant, or that may otherwise come to the possession of any officer, shall be safely kept, so long as shall be necessary for the purpose of being used as evidence in any case, and as soon as may be afterwards shall be destroyed by order of the court before whom the same shall be brought.

As added in 1870. p. 9-10

Statute 84 p. 9-10 Fire Proof St Dgs

" " " 94 Posters

Amended 1860 - p. 13

CHAPTER XXXVII.

VAGRANTS—DISORDERLY PERSONS.

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SECTION 1. Beggars, idlers, vagrants—How punished.
2. Gamesters, jugglers, fortune tellers, sorcerers, etc.—How punished.
3. Where the offender is a minor or a married woman.
4. Magistrate to sentence at hard labor.

1. Any idle person who is able to work, who habitually goes about begging for his own support and profit, or for the support of his family, or who, without visible means of support, lives in idleness eating the food of others, and any person wandering abroad, and not giving a good account of himself, may be arrested and carried before any police or district justice, who shall have the power of committing any such person to the district workhouse, or to the cutting of stone, or such other government work as may be usual in the district, in which such person is arrested, for any period not exceeding six months; or to bind out such idler to labor for a term not exceeding one year at any one time, with any agriculturist, planter or farmer in any of the islands, or with any mechanic or artizan. The hire paid for the services of such idler, if any, shall go two-thirds to the person thus apprenticed and one-third to the exchequer; and in case the idler thus apprenticed shall neglect or refuse to do the reasonable labor required of him, the person to whom he is bound is authorized to use such reasonable coercive measures as the police or district justice of the district in which he resides may from time to time indicate.

2. Any persons who, having no visible calling, support themselves for the most part by gaming:

Any juggler, or any person who practices hoomanamana or pretends to tell fortunes, or where lost and stolen goods may be found:

Any person who practices anaana or pretends to have the power of praying persons to death:

Any common prostitute:

Any person who is lewd, wanton, or lascivious in speech or behavior:

Any keeper of a bawdy house:

Any common railer or brawler:

Any common drunkard:

Any person who neglects his calling or employment, misspends what he earns and does not provide support for himself and his family:

Any person who is a dangerous or disorderly person by reason of his being a rioter, disturber of the peace, going offensively armed, uttering menaces or threatening speeches, or otherwise:

Any person who plays in the public streets, or highways, with cards, dice, coin, or other instruments or device for gambling:

And any other idle or disorderly person may each of them be committed by order of any police court or district justice to the jail, fort or workhouse, at the discretion of the court or magistrate, there to be detained, subject to the rules and regulations of such place of imprisonment or detention, for any period not exceeding six months:

Provided, however, that if the party charged shall give recognizance to the government in a sum, and with surety or sureties, to be approved by the court or magistrate taking cognzance of the case, conditioned that he shall not commit the offense complained of within any time prescribed by such court or magistrate, not less than six months, nor more than two years, he shall be discharged.

It shall be competent for any police court or district justice to cause any idle or disorderly person to be detained for a period not exceeding two years. (1868, p. 8.)

3. If the party charged be a minor or married woman, other parties may recognize in his or her behalf.

4. The court or magistrate having jurisdiction of the offenses specified in the 2d section of this chapter, when in their opinion a sentence to imprisonment merely would not subserve the ends of justice, are hereby authorized to sentence any such person as shall have been found guilty of any of the said offenses, to imprisonment at hard labor for a term not exceeding three months. (1860, p. 13.)

CHAPTER XXXVIII.

RIOTS AND UNLAWFUL ASSEMBLIES.

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SECTION 1. Unlawful assembly defined.
2. Riots defined.
3. Menacing language or gestures.
4. Concurrence in intent.
5. Tumult and violence, though the persons assembled in a lawful manner.
6. Promoting or aiding at a riot or unlawful assembly.
7. Remaining after order to disperse.
8. Every person present presumed to have notice of an order to disperse.
9. A riot or unlawful assembly having for its object the destruction or injury of a house, etc.—Punishment.
10. A riot or unlawful assembly endangering life, etc.—Punishment.
11. Duty of Governors and other officers.
12. Armed force may be called out.
13. Whose orders the armed force is to obey.
14. Persons killed or wounded.

1. Where three or more persons are, of their own authority, assembled together with disturbance, tumult and violence, and striking terror or tending to strike terror into others, such meeting is an unlawful assembly, within the meaning of the provisions of this chapter.

2. A riot is where three or more being in unlawful assembly join in doing or actually beginniug to do an act, with tumult and violence, and striking terror, or tending to strike terror into others.

3. Menacing language, or gestures, or show of weapons or other signs or demonstrations tending to excite terror in others, are sufficient violence to characterize an unlawful assembly or riot.

4. Concurrence in an intent of tumult and violence, and in any violent tumultuous act, tending to strike terror into others, is a sufficient joining in intent to constitute a riot, though the

parties concerned did not previously concur in intending the act. For example, where persons present at a public performance, concur in the intent to disturb the same by tumult and violence, tending to strike terror; or concur in one or more acts of tumult or violence tending to strike terror, done by any of the assembly.

5. It is not requisite in order to constitute an unlawful assembly or riot, that persons should have come together with a common or unlawful intent, or in any unlawful manner; or that the object of the meeting, or the act done or intended, should of itself be unlawful. The tumult and violence tending to excite terror, characterize the offense, though the persons may have assembled in a lawful manner, and though the object of the meeting, if legally pursued, or the act done or intended, if performed in a proper manner, would be lawful.

6. Persons present at a riot or unlawful assembly, and promoting the same, or aiding, abetting, encouraging or countenancing the parties concerned therein by words, signs. acts or otherwise, are themselves parties thereto and principals therein.

7. In case of an unlawful assembly being by proclamation or otherwise ordered to disperse by any one having legal authority to disperse the same, any one voluntarily remaining in the assembly after notice of such order, except for keeping the peace, is thereby a party concerned in such unlawful assembly.

8. Every person present in an unlawful assembly is presumed to have notice of an order given by lawful authority in lawful manner for the same to disperse.

9. Whoever is guilty of a riot or unlawful assembly, having for its object the destruction or injury of any house, building, bridge, wharf, or other erection or structure; or the destruction or injury of any ship or vessel, or the furniture, apparel or cargo thereof, shall be punished by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars; and shall also be answerable to any person injured to the full amount of his damage.

10. Whoever is guilty of being a party concerned in a riot or unlawful assembly endangering the life, limb, health or liberty of any person, or in any other riot or unlawful assembly not of

the description designated in the above section, shall be punished by imprisonment at hard labor not more than five years, or by fine not exceeding one thousand dollars.

11. In case of any riot or unlawful assembly in any town, village or district, it shall be the duty of the governor, if any be resident there, and of every police or district justice there resident, and also of the marshal, sheriff of the island, and his deputies, and of the prefect of police for said town, village or district to go among the persons so assembled, or as near to them as may be with safety, and in the name of the King to command all the persons so assembled immediately and peaceably to disperse; and if the persons shall not thereupon so disperse, it shall be the duty of each of said officers to command the assistance of all persons present, in seizing, arresting and securing in custody the persons so unlawfully assembled, so that they may be proceeded with for their offense according to law.

12. If any persons riotously or unlawfully assembled, who have been commanded to disperse by the governor, marshal, sheriff, deputy sheriff, prefect of police, or district justice, shall refuse or neglect to disperse without unnecessary delay, any two of such officers may require the aid of a sufficient number of persons in arms, or otherwise, as may be necessary, and shall proceed in such manner as in their judgment shall be expedient forthwith to disperse and suppress such unlawful, riotous, or tumultuous assembly, and seize and secure the persons composing the same, so that they may be proceeded with according to law.

13. Whenever an armed force shall be called out for the purpose of suppressing any tumult or riot or unlawful assembly, or to disperse any body of riotous men, such armed force shall obey such orders for suppressing the riot or tumult or for dispersing and arresting the persons who are committing any of the said offenses, as they may receive from the governor, marshal, sheriff of the island, or prefect of police, and also such further orders as they may receive after they shall arrive at the place of such unlawful, riotous or tumultuous assembly, as may be given by any two of the magistrates or officers mentioned in the preceding section.

14. If by reason of the efforts made by any two or more of said magistrates or officers, or by their direction, to disperse

such unlawful, riotous or tumultuous assembly, or to seize and secure the persons composing the same, who have refused to disperse, any such person or any other person then present, as spectators or otherwise, shall be killed or wounded, the said magistrates and officers and all persons acting by their order or under their direction shall be held guiltless and justified by law, and if any of said magistrates or officers, or any person acting under their authority or by their direction shall be killed or wounded, all the persons so at the time unlawfully, riotously or tumultuously assembled, and all other persons who, when commanded or required, shall have refused to aid and assist the said magistrate or officers, shall be held answerable therefor.

CHAPTER XXXIX.

GAMING.

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6. When officers or other persons may sue for and recover.
7. All notes, bills, conveyances of land, etc, tainted with gaming are void.
8. Both parties competent witnesses.

1. Whoever by playing at cards, or any other game, wins or loses any sum of money or thing of value is guilty of gaming.

2. Gaming is of two degrees, viz: gaming on the Lord's day; and where any person shall at any one time or sitting win or lose twenty-five dollars or more is of the first degree, and other gaming is of the second degree.

3. Whoever is guilty of gaming of the first degree shall be punished by fine not exceeding ten times the value of the money or other thing won or lost, or by imprisonment at hard labor not exceeding sixty days.

4. Whoever is guilty of gaming of the second degree sha l be punished by fine not exceeding fifty dollars or imprisonmen at hard labor not more than thirty days.

5. Whoever shall by playing at cards or any other game, or by betting on the sides or hands of such as do play, lose any sum of money, or thing of value, and shall pay or deliver the same or any part thereof, may sue for and recover the money or value of the thing so lost and paid or delivered, from the winner thereof.

6. In case the person so losing such money or any thing of value shall not within three months after such loss, in good faith and without collusion, prosecute with effect and without unreasonable delay for such money or other thing of value, it

shall be lawful for any constable or other officer or person to sue for and recover, treble the value of such money or other thing, with full costs of suit, the one half of which shall go to the person so prosecutiug, and the other half to the government, for the use of common schools.

7. All notes, bills, bonds, mortgages or other securities or conveyances whatever, in which the whole or any part of the consideration shall be for any money or other thing of value won by playing at cards, or any other game, or by betting on the sides or hands of any person gaming, or for reimbursing or repaying any money, knowingly lent or advanced for any gaming or betting, or lent and advanced at the time and place of such gaming and betting, to any person so gaming and betting shall be void and of no effect, as between the parties to the same, and as to all persons, except such as shall hold or claim under them, in good faith and without notice of the illegality of the consideration of such contract or conveyance, and whenever any mortgage or other conveyance of lands shall be adjudged void, under the provisions of this section, such lands shall enure to the sole use of and benefit of such person as would be then entitled thereto, if the mortgagor or grantor were naturally dead; and all grants or conveyances for preventing such lands from coming to or devolving upon the person to whose use and benefit the said lands would so enure, shall be deemed fraudulent and of no effect.

8. In every suit brought to recover any money or other thing of value, as provided in section fifth of this chapter, both the plaintiff and defendant shall be competent witnesses; and no person other than the parties shall be excused from testifying, touching any offense committed against any of the foregoing provisions relating to gaming, by reason of his having played, betted or staked at any game; but the testimony of any such person shall not be used against him in any suit or prosecution authorized by any of the foregoing provisions.

9 (added) State 84 p. 25

See Stat. 86 p 88.

L. 575

CHAPTER XL.

DISTURBING THE QUIET OF THE NIGHT.

1. All loud noise by night is *taboo*. Whoever, after sunset, shall, by hallooing, singing in the streets, or in any other way, make any disturbing or disorderly noise, in any village, town, or part of this kingdom, without justifiable cause for so doing, shall be liable to summary arrest and imprisonment by any constable or police officer, and upon conviction be punished by a fine not exceeding ten dollars.

Repealed C. L. 1897

CHAPTER XLI.

SUPPRESSION OF DRUNKENNESS—MANUFACTURE AND SALE OF INTOXICATING DRINKS.

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1. Whoever shall sell, give, purchase, or procure for, and in behalf of any native of this kingdom, or for his use, any spirituous liquor, or other intoxicating drink or substance, shall be punished by a fine not exceeding two hundred dollars; and in default of the payment of such fine, by imprisonment at hard labor for a term not exceeding two years.

2. Whoever shall manufacture for sale any intoxicating drink or substance in this kingdom, shall be liable to a fine of five hundred dollars; and in default of payment of said fine, shall be imprisoned at hard labor not exceeding two years.

3. No license granted to any retail vendor of goods, wares and merchandise, shall be construed to authorize the sale of alcohol, cologne, lavender, or any other alcoholic preparation under the name of perfumery, to be used as a beverage. The absence of the usual qualities of perfumery in any such preparation, shall be regarded, if the same is sold to be used as a beverage, as conclusive evidence of an intention to evade the laws relating to the retail vending of spirituous liquors.

4. No victualing house or hotel license shall authorize the sale of peaches, cherries, or other fruits preserved in brandy or or spirits of any kind, to be used on or about the premises for which such license is granted. Any such use shall be held as presumptive evidence of an intention to evade the laws relating to the retail vending of spirituous liquors.

5. Any person offending against the provisions of the last two preceding sections, shall be subject to a fine of not less than ten, nor more than fifty dollars, for each offense. The court, in its discretion, may add imprisonment at hard labor for a term not exceeding thirty days.

6. All spirituous liquors imported under the name of perfumery or preserved fruits, with the intention of evading the laws relating to duties, shall be liable to seizure, condemnation and sale, for the benefit of the public treasury. (Art. 2, chap. 7 of the Civil Code.)

7. All stills, distilling apparatus, or other articles in use, or having been used in distilling spirituous liquors, or other intoxicating drinks or substances, within this kingdom, and also all spirituous liquors or other intoxicating drinks or substances manufactured within this kingdom, shall be forfeited to the Crown, and may be seized and taken possession of by the marshal, sheriffs, or their deputies, or by any constable; and all articles so seized by any other officer than the marshal or sheriff, shall without delay be delivered into the care of the marshal or sheriff nearest to the place of seizure, who shall cause a notice of such seizure to be published in the Government Gazette, and unless the owner, or some person authorized to claim possession thereof, shall, within twenty days from the day of such notice of seizure, file with the officer having the same in possession, a written claim to such property so seized, it shall be held to be condemned as forfeited to the Crown; and in all cases where the owner, or some person claiming the right of possession, shall file written claim as herein provided, it shall be the duty of the marshal or sheriff having the property in possession, to furnish to the district attorney of the island on which the property is situated, a written statement of the facts; who is hereby authorized and required to take legal measures, to have the question determined, whether the property seized has been forfeited in accordance with the provisions of this section. (1860, p. 14.)

8. Whoever shall distill any spirits in this kingdom, shall be punished by a fine not exceeding one thousand dollars, nor less than fifty dollars, and in default of payment of such fine, shall be imprisoned at hard labor for a term not exceeding two years. (1859, Civil Code, p. 442.)

9. From and after the first day of July, A. D. 1852, no person licensed to sell ardent spirits, either by the glass or bottle, or licensed to sell wine, ale, porter or spruce beer, shall sell or furnish the same from the hour of 10 o'clock of each Saturday evening until the hour of 5 o'clock A. M. of the Monday following, under a penalty of not more than five hundred dollars, nor less than one hundred dollars, upon conviction of such offense before any police or district justice: Provided that this section shall not be so construed as to interfere with the ordinary sup-

plies of the above named liquors on the tables of hotels and victualing houses. (Civil Code, p. 408.)

10. If any victualing house keeper, shop keeper, or keeper of a tippling house, not duly licensed to sell spirituous liquors, shall sell or furnish any other person than those described in the first section of this chapter, with any spirituous liquor or other intoxicating drink or substance, he shall be punished by a fine not exceeding two hundred dollars, and in default of payment of such fine, by imprisonment at hard labor for a term not exceeding two years.

11. No wine or intoxicating liquor, or any article prohibited by the prison rules, shall be used by any prisoner; and any person who shall furnish any such drink to any prisoner, unless the same be prescribed by a physician as a medicine; or who shall furnish any other prohibited article contrary to the provisions of the prison rules, shall be fined not exceeding two hundred dollars, or imprisoned at hard labor not exceeding two years, in the discretion of the court; and if an officer, in addition thereto, be dismissed; and any police or district justice shall have jurisdiction of any case arising under this section. (Civil Code, Section 214.)

12. In case an offense against the provisions of this chapter of the penal Code, prohibiting the sale of intoxicating drinks or substances, shall be committed by any person on the premises used or occupied by a person licensed to sell intoxicating drinks or substances by the Minister of the Interior, or in which he has any interest as lessee or otherwise, provided the same is adjoining the premises used or occupied by him, the person so licensed shall be presumed to be knowing and sanctioning such offense and be responsible for the same, and liable to the same penalties as though it was committed by him in person, unless he establishes, to the satisfaction of the court or jury before which he is charged and being tried, that the offense was committed without his knowledge or assent, and that he has not and is not knowingly to receive any pecuniary profit or benefit in consequence thereof. (1860, p. 28.)

13. Every second and succeeding offense, such as described in section 12 of this chapter, shall be punished by a fine not less than three hundred or more than one thousand dollars, and in

every case which the court shall deem to be attended with circumstances of special aggravation, it shall be discretionary with the court to further sentence the party or parties offending to imprisonment with hard labor for any term not to exceed one year. (1860, p. 28.)

14. In all cases where the licensed retailer of intoxicating drinks or substances is prosecuted for any offense against the provisions of chapter 41 of the penal code, no other person shall be liable to prosecution for the same offense, but may be compelled to give testimony in relation thereto, by the court before which the same may be tried. (1860, p. 28.)

15. The Minister of the Interior shall have power to grant a wholesale vending license for spirituous liquors to any wholesale merchant applying therefor in writing, and stating in his application the name of the vendor and where the applicant intends to establish his place of business; provided that such wholesale license shall only be granted to persons having a license to sell goods, wares and merchandise at wholesale. (1862, p. 21.)

16. The wholesale vending of spirituous liquors shall consist of selling the same in quantities not less than the packages originally imported.

Wines, ales and other liquors containing alcohol are comprehended in this chapter.

Provided that the same, and no part thereof, shall be drank or used on the premises where they are sold, or in any other house or premises contiguous thereto, procured or rented for that purpose by the party holding such license, or any other person or persons whatsoever through his agency, under the penalty of forfeiting his license and incurring the penalties of the law and his bond.

17. Before granting such wholesale license to vend spirituous liquors, the applicant shall pay for the use of the Royal Exchequer one hundred dollars, and give a bond to the Minister of the Interior, in the penalty of two hundred and fifty dollars, with at least one sufficient surety to be approved by said Minister.

18. The Minister of the Interior shall have power in like manner to grant licenses to any person for the vending of wine,

ale and other spirituous liquors, upon such person applying therefor in writing. and stating in his application the name of the vendor and where the applicant intends to establish his place of business.

19. Any person having obtained a license in accordance with the preceding section, may sell ardent spirits in quantities not less than one gallon ; wines, ales and other liquors containing alcohol, in quantities not less than one dozen bottles; provided that the same and no part thereof shall be drank or used on the premises where they are sold, or in any other house or premises contiguous thereto, procured or rented for that purpose by the party holding such license, or any other person or persons whatsoever through his agency, under the penalty of forfeiting his license and incurring the penalty of the law and his bond.

20. Before granting such license to any person to vend wine, ale. and other spirituous liquors, as prescribed in sections 17 and 18 of this chapter, the applicant shall pay to the Minister of the Interior, for the use of the Royal Exchequer, the sum of two hundred and fifty dollars, and give a bond to the Minister of the Interior in the penalty of five hundred dollars, with at least one surety to be approved by said Minister.

21. The Minister of the Interior shall have power to grant licenses to retail spirituous liquors by the bottle or glass, upon application in writing, stating the name of the vendor and where the applicant intends to establish his place of business. But it shall not be lawful to grant licenses for the retail of spirituous liquors, including all wines and other intoxicating drinks, at any other place in the kingdom than Honolulu.

22. Before the granting of a retail license to vend spirituous liquors, as contemplated in the preceding section, the applicant shall pay to the Minister of the Interior, for the use of the Royal Exchequer, the sum of one thousand dollars, and give a bond to the Minister of the Interior, with the penalty of one thousand dollars, with at least one sufficient surety to be approved by said Minister.

23. The licenses mentioned in this chapter shall be signed by the Minister of the Interior, and impressed with the seal of his Department.

24. The Minister of the Interior, by and with the consent of His Majesty the King in Privy Council, shall have the power, and it shall be his duty, to fix the limits or boundaries within which those obtaining a license contemplated by this chapter, shall carry on and transact such business, and shall cause public notice to be given of the same; and he shall designate in the license the house or store or place in which such licensed person shall be authorized to pursue his business, and the license so granted shall not be transferable or held to authorize such business to be carried on by any person or persons, or at any other place than such as may be designated in the license.

25. The sale and vending of spirituous liquors shall be regulated more definitely by the terms of the license; and the Minister of the Interior may prescribe in the license definite rules and regulations to be observed by the vendors.

26. All persons applying for a license under the provisions of this chapter shall, before receiving the same, file a bond, (in form similar to the following;) the same being always subject to the approval of the Minister of the Interior:

Know all men by these Presents: That we ——— Principal, and ——— Surety, are held and firmly bound unto the Minister of the Interior, for the use of the Hawaiian Government, in the penal sum of ——— dollars, lawful money, to be levied on our respective, joint and several property in case the conditions hereinafter set forth shall be violated.

For the just and full payment of which we hereby jointly and severally bind ourselves, our heirs, executors, administrators and assigns.

Sealed with our seals and dated this — day of ———, 18—.

The condition of this obligation is as follows: That whereas the above bounden Principal has this day applied for a license to vend spirituous liquors, in accordance with the law enacted on the 23d day of August, 1862, and has complied with all the requisitions of said law, and has, consequently, become entitled to a license to vend spirituous liquors, in accordance with the statute in such cases made and provided, for the term of one year from date. Now, therefore, if during the continuance of this license the said ——— shall not contribute to the violation of any of the laws of this Kingdom, nor violate

any of the conditions of his license—copy of which is hereto annexed—then this obligation shall be void. Otherwise, upon proof being made to the satisfaction of a common magistrate, without the intervention of a jury, the penalty mentioned in this bond shall be forfeited, and the license of the said ———, this day granted shall be void.

Given under our hands and seals the day and year above written.

In the presence of ——, ——, ——.

27. Upon a violation of any of the conditions of his bond by any licensed dealer in spirituous liquors, it shall be the duty of the Minister of the Interior to pass said bond to His Majesty's Attorney General of the Kingdom, for enforcement against the parties thereto, both principal and surety, with such information as has come to his knowledge in regard to any violation.

28. The Minister of the Interior shall keep in a book of Licenses, the names of all licensed vendors of spirituous liquors throughout the kingdom, their respective places of abode, the character of the licenses granted them, and the amount of license money paid by each, together with the date of each license. It shall be his special duty from time to time to pay over to the Minister of Finance all license money by him received, under the provisons of this chapter.

29. Any person violating the provisions of this chapter by vending spirituous liquors without having previously obtained a license as hereinbefore provided, shall, on conviction, forfeit and pay to the Hawaiian Government, for each offense, the sum of five hundred dollars, and may be imprisoned at hard labor not exceeding six months, in the discretion of the court.

30. The marshal, sheriff or deputy sheriffs shall, in person or by proxy, inspect all places licensed to vend spirituous liquors under this Act.

CHAPTER XLII.

KEEPING A DISORDERLY HOUSE.

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2. Classes of houses considered disorderly.
3. As to any part of a building.
4. Wife may be punished with husband for keeping house of prostitution.

1. Whoever shall keep a disorderly house shall be punished, where no other punishment is expressly provided by statute, by fine not exceeding one hundred dollars, or by imprisonment at hard labor not more than six months.

2. The following houses are disorderly, within the meaning of the provisions of this chapter, viz:

Houses kept for the purpose of public prostitution:

Houses in which any indecent postures, or indecent, immoral or disorderly shows or sights are exhibited:

Houses kept for the sale of any intoxicating drink without license:

Houses in which gambling is permitted.

3. Any part of a building appropriated to either of the purposes above enumerated, is a house within the meaning of this chapter.

4. The wife may be punished with the husband for keeping a house for the purpose of public prostitution.

CHAPTER XLIII.

OF OFFENSES COMMITTED ON THE HIGH SEAS AND OTHER WATERS.

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7, 8. Casting away, setting on fire, or otherwise destroying a vessel on the high seas.
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10. Revolt and mutiny.
11. Attempt to revolt and mutiny.
12. Maltreatment of crew.
13. Forcing mariner on shore, or leaving him in a foreign country.
14. Offenses committed on board vessel in a foreign place—how triable.

1. Whoever on the high seas, in a vessel bearing the Hawaiian flag, commits the crime of murder, or rape, or maliciously wounds or otherwise injures another, of which wound or injury such other shall afterwards die upon sea or land, shall be punished by death.

2. Whoever on the high seas, in a vessel bearing the Hawaiian flag, commits manslaughter, shall be punished by imprisonment at hard labor for life or any number of years, in the discretion of the court.

3. Whoever on the high seas, by surprise or open force or violence, maliciously attacks any vessel belonging in whole or in part to the Hawaiian Government, or to any citizen thereof, or to any other person whatsoever, with intent unlawfully to plunder the same or despoil another of any money, goods or other things of value on board thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment at hard labor not exceeding ten years.

4. Whoever on the high seas shall, with intent to kill, rob, steal, commit a rape, or to do or perpetrate any other felony, break or enter any vessel or other water craft; and whoever on the high seas, or in any channel, arm of the sea, river, haven, creek, basin or bay within the jurisdiction of this kingdom, shall willfully and maliciously cut, spoil or destroy any cordage, cable, buoys, buoy rope, headfast or other fast fixed to any anchor or mooring belonging to any vessel or other watercraft, shall be punished by fine not exceeding one thousand dollars and imprisonment at hard labor not more than five years.

5. Whoever on the high seas, shall buy, receive, or conceal, or aid in concealing any money, goods or other things which may be the subject of larceny, which has been feloniously taken or stolen from any other person, knowing the same to have been so taken or stolen, shall be punished by fine not exceeding one thousand dollars and imprisonment at hard labor not exceeding three years.

6. Whoever shall plunder, steal or destroy any money, goods or other effects, from or belonging to any vessel or other water craft, which shall be in distress, or wrecked, lost, stranded or cast away, upon the sea, or upon any shore, reef, shoal, bank or rocks of the sea; and whoever shall willfully obstruct the escape of any person endeavoring to save his life from such vessel or watercraft, or the wreck thereof, and whoever shall hold out or show any false light with intention to bring any vessel or other watercraft, being or sailing upon the sea, into danger, or distress, or shipwreck, shall be punished by fine not exceeding five thousand dollars and imprisonment at hard labor not more than ten years.

7. Whoever, not being an owner, shall on the high seas willfully and maliciously cast away, set on fire, or otherwise destroy any vessel lawfully bearing the Hawaiian flag, or procure the same to be done, shall be punished by death, or imprisonment at hard labor for life, or any number of years, according to the aggravation of the offense.

8. Whoever, being the owner in whole or in part of any vessel bearing the Hawaiian flag, shall, on the high seas, willfully and maliciously cast away, set on fire, burn or otherwise destroy any such vessel, or in anywise direct or procure the

same to be done, with intent to prejudice any other owner of such vessel, or any person who shall load goods thereon, or any underwriter on such vessel or her cargo, shall be punished by death, or imprisonment at hard labor for life or any number of years.

9. Whoever, being an owner in whole or in part of any vessel, or not being such owner, shall willfully and maliciously set on fire, burn or otherwise destroy or attempt to destroy, any vessel, in any port, channel, bay or haven, or other waters within the jurisdiction of this kingdom; and whoever shall willfully and maliciously cast away any vessel on the sea, or on any reef, rock, shoal, bank or other place within the jurisdiction of this kingdom, shall be punished by imprisonment at hard labor for life or any number of years, according to the nature and aggravation of the offense.

10. Whoever, belonging to the crew of any Hawaiian vessel, shall, on the high seas or on any other waters within the jurisdistion of this kingdom, unlawfully and willfully, with force, threats or otherwise, usurp the command of such vessel from the master, or other lawful commanding officer thereof, or deprive him of his command thereof, or resist or prevent him in the free and lawful exercise thereof, or transfer such command to any other person not lawfully entitled thereto, shall be adjudged guilty of a revolt or mutiny, and shall be punished by fine not exceeding two thousand dollars, and by imprisonment at hard labor not more than ten years, according to the nature and aggravation of the offense.

11. Whoever, belonging to the crew of any Hawaiian vessel, shall, on the high seas or on any waters within the jurisdiction of this kingdom, endeavor to make a revolt or mutiny on board such vessel, or shall conspire, combine or confederate, with any other person on board to make such revolt or mutiny, or shall solicit, incite or stir up any other of the crew to disobey or resist the lawful orders of the master or other officer of such vessel, to refuse or neglect their proper duty on board thereof, or shall assemble with others in a tumultuous and mutinous manner or make a riot on board thereof, or shall unlawfully confine the master or other commanding officer thereof, shall be punished by fine not exceeding one thousand dollars, or by impris-

onment at hard labor not more than five years, or both, according to the nature and aggravation of the offense.

12. If any master or other officer of a Hawaiian vessel on the high seas, or on any other waters within the jurisdiction of this kingdom, shall maliciously and without justifiable cause beat, wound or imprison any one or more of the crew of said vessel or withhold from them suitable food and nourishment, or inflict upon them any cruel and unusual treatment, he shall be punished by fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than five years, or both, according to the nature and aggravation of the offense.

13. If any master or other officer commanding any Hawaiian vessel shall, during his being abroad, maliciously and without justifiable cause, force any officer or mariner of such vessel on shore, or leave him behind in any foreign port or place; or refuse to bring home again all such officers and mariners whom he carried out with him as are in a condition to return, and willing to return when he shall be ready to proceed on his homeward voyage, he shall be punished by fine not exceeding one thousand dollars, or by imprisonment at hard labor not more than two years, according to the aggravation of the offense.

14. If any offense shall be committed on board of any Hawaiian vessel, while lying in any port or place within the jurisdiction of any foreign state, by any officer, mariner, passenger or other person belonging to the said vessel, it shall be cognizable and punishable in this kingdom in the same way and manner as if said offense had been committed on board of such vessel on the high seas, and without the jurisdiction of such foreign state: Provided, however, that if such offender shall be tried for such offense, and acquitted thereof, or convicted in any competent court of such foreign state, he shall not be subject to another trial in any court of this kingdom.

CHAPTER XLIV.

ATTEMPTS AND INSTIGATIONS.

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2. A mere preparation to commit is not an attempt.
3. When the attempt is merged in the offense.
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7. The instigation is merged in the offense when.
8. When the instigator repents and endeavors to prevent the offense.
9. No person can be convicted on the mere testimony of the party instigated.

1. An attempt to commit an offense, is some act done towards committing, and in part execution of the intent to commit the same. As, for example, putting poison in the way of a person, with intent thereby to murder him.

2. A mere preparation of the means of committing any offense, nothing being done in execution of the intent to commit the same, is not an attempt to commit the same. As, for example, merely procuring poison intended to be used for murder.

3. Where any offense attempted is committed by the party making such attempt, the attempt is merged in the offense.

4. Where it does not appear which of two or more degrees of any offense is attempted, the lowest of such degrees is presumed.

5. Whoever attempts to commits any offense, for the punishment of which attempt no special provision is othenwise expressly made, shall, if the offense be punishable with death or imprisonment for life, be punished by imprisonment at hard labor not more than ten years. And in any other case, by fine and imprisonment, or either, in the discretion of the court, but not exceeding the punishment prescribed for such offense.

6. Whoever instigates another to the commission of any offense, by commanding, soliciting or offering to hire, or otherwise endeavoring to induce him to commit the same, shall be subject to the penalty of an attempt to commit such offense.

7. The instigation is merged in the offense committed in pursuance thereof, when the offense is committed in such a manner that the instigator is guilty thereof, by reason of his being an accessory before the fact or otherwise.

8. If, before an offense is attempted in pursuance of an instigation thereto, the instigator repents, and countermands the same, and endeavors to his utmost to prevent the offense, he shall not be subject to punishment for the instigation.

9. No person shall be convicted of instigating another to an offense on the mere testimony of the party professing to have been so instigated, not corroborated by other evidence direct or circumstantial, except in cases where it is expressly otherwise provided.

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ACCESSORIES AFTER THE FACT.

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SECTION 1. Accessories after the fact defined.
2. Punishment.

1. If any one, not standing in the relation of husband or wife, parent or child, brother or sister, by consanguinity or affinity, to any person guilty, either as principal or accessory before the fact, of any offense punishable by death or imprisonment for life, shall harbor, conceal, maintain, or assist such person, with the intent that such person shall avoid or escape from detection, arrest, trial or punishment, he shall be deemed an accessory after the fact to such offense; and shall be punished, where punishment for his offense is not otherwise expressly provided, by imprisonment at hard labor not more than ten years, or by fine not exceeding two thousand dollars.

2. Whoever is accessory after the fact to any other offense punishable by imprisonment for five years or more, shall be punished, where punishment is not otherwise provided by law, by imprisonment at hard labor not more than two years, or by fine not exceeding five hundred dollars.

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CHAPTER XLVI.

FORMER CONVICTION OR ACQUITTAL.

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2. Former acquittal.
3. Where the same act constitutes two or more offenses.
4. Acquittal on variance or exception.
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1. Any person who has been tried and convicted of any offense before a court, tribunal or magistrate having jurisdiction of the case, shall not be subject to subsequent criminal prosecution therefor, and such conviction may be pleaded in bar of any such subsequent prosecution.

2. No person shall be subject to be tried again for the same offense, of which he has been found not guilty and acquitted on a former trial, upon the facts and merits before a court, tribunal or magistrate having jurisdiction of the case ; and such acquittal may be pleaded in bar of any such subsequent prosecution.

3. Where the same act constitutes two or more diverse and distinct offenses, different in their nature and character, one not being merged in the other, the offender may be proceeded against for each, and cannot plead a conviction or acquittal for one, in bar of proceedings against him for the other.

4. Any person acquitted on trial of any charge of any offense upon the ground of variance between the indictment, information or complaint, and the proof, or upon any exception to the form or the substance of the indictment, information or complaint, may be subsequently tried and convicted of such offense under a new indictment, information or complaint, notwithstanding such former acquittal.

5. Any public officer who is acquitted or convicted on an impeachment for any misdemeanor, cannot plead such conviction or acquittal in bar of a criminal prosecution for the same.

CHAPTER XLVII.

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3. When prisoner may be committed to prison.
4. Power of magistrate when he fears the prisoner intends an offense against any person not designated.
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6. Power of magistrate when an offense is committed in his presence.
7. When a person has reason to suspect the commission of an offense against the person or property of another.
8. Powers of magistrate upon conviction in certain cases.
9. When bond is broken how and by whom suit is to be brought.
10. Surety may discharge himself by surrendering principal.

1. When any one fears that another intends to commit an offense against his person, or property, with violence, he may apply to any police or other justice, who shall take the declaration of the applicant, under oath, reduced to writing; and if it appears that he has reason to fear the commission of such offense, the justice may cause the person complained of to be arrested and brought before him by warrant.

2. Where any one so arrested is brought before the justice, he shall hear any statement or proof the accused has to offer, and if from such statement and evidence it appears that the complainant has mistaken the intention of the accused, and has no cause of fear, the prisoner shall be discharged; if he fail in showing that the application is groundless, the justice shall direct the accused to give bond, in a sum proportioned to the nature of the offense, with sufficient surety that he will commit no offense against the person or property of the complainant.

3. If the bond be not executed according to the order of the justice, the prisoner shall be committed to prison, and shall remain in custody until the bond be so executed.

4. If, from the nature of the evidence offered, or from the demeanor of the prisoner, the magistrate has reason to believe that the prisoner intends an offense against the person or property of any person who cannot be designated, he may order the bond to be conditioned that he will commit no offense against the person or property of any one.

5. The bond shall be limited in its operation to the term of one year; but it may be for a shorter time; and at any time within the last month of the year, the complainant may renew his application, and the order for security may be renewed on the oath of the party, declaring that he still fears the execution of the prisoner's former designs, provided the justice, after hearing the circumstances of the case, shall deem such fear well founded.

6. Any justice who is present when any offense, accompanied with violence, is committed, may, without any other proof, order the offender to be arrested, and compel him to give security in the manner above directed, to refrain from the exercise of any illegal force.

7. Any person who knows or has reason to suspect that any offense against the person or property of another is intended to be committed, may apply to a justice, who shall hear the proof, and if he be convinced of the existence of such intention, shall cause the person accused to be arrested, and compelled to give security in the manner above directed.

8. Where, upon the conviction of a person for an offense, it appears from the character of the offender or his conduct in committing the offense, there is good reason to apprehend a repetition of that offense, or the commission of some other, the court or justice may add to their sentence that after the execution of the punishment is complete, and before the offender, if in custody, is discharged, he shall give security in the form and for the time above directed, either that he will not commit any particular offense or any designated species of offenses, or generally, that he will commit no offense for the time limited.

9. If the condition of any bond given under any of the provisions of this chapter be forfeited, it shall be put in suit by the public prosecutor, who must specify in his petition in such

suit, the offense which has caused the breach of the condition of the bond.

10. At any time before the breach of the condition of such bond, the surety may discharge himself by surrendering the principal into the hands of the marshal or chief constable of the district.

CHAPTER XLVIII.

SEARCH WARRANTS.

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3. For what purposes a search warrant may be granted.
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5. Must be in writing, etc.
6. When directed to sheriff may be executed by his deputies.
7. Before executing it officer must give notice to applicant.
8. Power of the officer in entering houses, etc.
9. Must be executed in the presence of two inhabitants, and inventory made of the property seized.

1. Another means of preventing the commission of offenses, and of detecting them when committed, is by the issuing of search warrants.

2. A search warrant is an order in writing made by a justice, or other magistrate, directed to an officer of justice, commanding him to search for certain articles supposed to be in the possession of one who is charged with having obtained them illegally, or who keeps them illegally, or with the intent of using them as the means of committing a certain offense.

3. The power of granting this writ is one in the exercise of which much is necessarily left to the discretion of the magistrate, but, except in cases where this power is elsewhere specially granted by statute, search warrants can only be granted for the following purposes, viz: (See Section 901 of Civil Code.)

To discover property taken by theft or under false pretenses, or found and fraudulently appropriated:

To seize forged instruments in writing, or counterfeit coin intended to be passed, or the instruments or materials prepared for making them:

To seize arms or munitions prepared for the purpose of insurrection or riot:

To discover articles necessary to be produced as evidence or otherwise on the trial of any one accused of a crime.

4. A search warrant can be granted in no case, but on an affidavit setting forth sufficient facts in the opinion of the magistrate to justify the issuing of such warrant.

5. The warrant must be in writing, signed by the magistrate with his official designation, directed to some sheriff or other officer of justice ; and commanding such sheriff or other officer to search for and bring before the magistrate the property or articles specified in the affidavit, to be disposed of according to justice ; and also to bring before him the person in whose possession the property or articles may be found, for examination.

6. If the search warrant be directed to a sheriff or prefect of police it may be executed by him or any of his deputies.

7. Before executing the warrant the officer must give notice to the person who applied for it, that he may be present and identify the property if found.

8. The officer charged with the warrant, if a house, store, or other building is designated as the place to be searched, may enter it without demanding permission if he finds it open ; if the doors be shut he must declare his office and his business, and demand entrance ; if the doors, gates or other bars to the entrance be not immediately opened, he may break them. When entered, he may demand that any other part of the house, or any closet, or other closed place in which he has reason to believe the property is concealed, may be opened for his inspection, and if refused he may break them.

9. The warrant must be executed in the presence of two inhabitants of the district, and an inventory of the property seized must be made before it is removed, and signed by the officer and the two inhabitants.

CHAPTER XLIX.

ARRESTS.

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3. When offender may be arrested by any person present.
4. When a person may be arrested without warrant upon suspicion.
5. When a policeman may arrest without warrant.
6. The duty of the officer at or before making the arrest.
7. When the officer may use force, and what degree.
8. Offensive weapons may be taken from the person arrested.
9. Person arrested to be taken before the magistrate when.
10. How house may be entered to make an arrest.

1. No arrest of any person shall be made without first obtaining a warrant or other process therefor from some magistrate, except in the cases in this chapter hereinafter provided.

2. Where a breach of the peace or other offense has been committed, and the offender shall endeavor to escape, he may be arrested by virtue of a verbal order of any magistrate, or without such order, if no magistrate be present.

3. Any one in the act of committing a crime, may be arrested by any person present, without a warrant.

4. Whenever a crime is committed, and the offenders are unknown, and any person shall be found near the place where the crime was committed, either endeavoring to conceal himself, or endeavoring to escape, or under such other circumstances as to justify a reasonable suspicion of his being the offender, such person may be arrested without warrant.

5. Policemen, or other officers of justice, in any seaport or town, even in cases where it is not certain that an offense has been committed, may, without warrant, arrest and detain for examination such persons as may be found under such circumstances as justify a reasonable suspicion that they have committed or intend to commit an offense.

6. At or before the time of making an arrest, the person must declare that he is an officer of justice, if such be the case. If he have a warrant he should show it if required; or if he make the arrest without warrant in any of the cases in which it is authorized by law, he should give the party arrested clearly to understand for what cause he undertakes to make the arrest, and must require him to submit and accompany him to the jail or magistrate. This done, the arrest is complete.

7. In all cases where the person arrested refuses to submit or attempts to escape, such degree of force may be used as is necessary to compel him to such submission.

8. He who makes an arrest may take from the party arrested all offensive weapons which he may have about his person, and must deliver them to the magistrate, to be disposed of according to law.

9. In all cases of arrest for examination, the person making the same must conduct the party arrested before the court or magistrate empowered to take such examination, within forty-eight hours after his arrest, except in cases where a longer delay is absolutely necessary to meet the ends of justice.

10. Whenever it is necessary to enter a house to arrest an offender, and entrance is refused, the officer or person making the arrest may force an entrance by breaking doors or other barriers. But before breaking any door, he shall first demand entrance in a loud voice, and state that he is the bearer of a warrant of arrest; or if it is in a case in which arrest is lawful without warrant, he must substantially state that information in an audible voice.

CHAPTER L.

BAIL.

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2. In what cases bail may be taken.
3. By whom bail may be taken.
4. When bail is taken prisoner must be discharged.
5. In cases of wounding likely to terminate in death, prisoner cannot be discharged.
6, 7. Amount of bail.
8. Who may be received as sureties.
9. When single surety is sufficient.
10. A woman cannot be received as surety.
11. When the accused is a minor or married woman.
12. When insufficient bail has been taken.
13. When witnesses may be made to enter into recognizance for appearance.
14. Bail may surrender principal.
15. Magistrate to transmit to the clerk above documents relative to the accusation.
16. The names of all persons who have given bail, etc., to be called in open court, etc.
17. Witnesses may be arrested when.
18. At what time witnesses are to attend.

1. Bail, or the giving of bail, is the signing of the recognizance by the person and his surety or sureties, conditioned for the appearance of the prisoner at the session of a court of competent jurisdiction, to be named in the condition, and to abide the judgment of such court.

2. In all cases where the offense charged is not punishable with death, imprisonment for life, or for a term of years exceeding ten, the accused shall be bailable, but in no others.

3. Bail may be taken by district and police justices before committing the accused to prison for trial, but after such commitment, no one but some judge of a court of record can let a prisoner to bail.

4. When bail is offered and taken the prisoner must be discharged from custody or imprisonment.

5. Where the offense is the illegal infliction of a wound, or any other injury that may terminate in the death of the person injured, the magistrate or court cannot discharge the prisoner if it appear that there is a probability that death will ensue in consequence of such injury. In this case, the party must be committed for further examination, until the consequences of the injury can be ascertained.

6. The amount of bail rests in the discretion of the justice or judge; but should be so determined as not to suffer the wealthy to escape by the payment of a pecuniary penalty, nor to render the privilege useless to the poor. In all cases, the officer letting to bail should consider the punishment to be inflicted on conviction, and the pecuniary circumstances of the party accused.

7. Where the punishment of the offense is a pecuniary penalty only, the bail must be greater than the highest fine that can be imposed.

8. No person shall be received as a surety for the appearance of the party accused, who does not own or possess property either real or personal within this kingdom, to double the amount of the bail bond. And in case the officer taking the bail shall doubt the sufficiency of such surety, he may compel the surety, either by his own oath or otherwise, to furnish proof of his sufficiency.

9. A single surety will be sufficient, if he possesses and owns unencumbered real property within this kingdom to double the amount for which he is bound, otherwise there must be two or more.

10. A woman cannot be received as surety.

11. When the person admitted to bail is a minor or married woman, the engagement shall, notwithstanding, be valid.

12. If, owing to mistake or misrepresentation, insufficient bail has been taken, or if the sureties afterwards become insufficient, the accused may be ordered to find sufficient sureties by any magistrate, and on his refusal, he may be committed for trial.

13. In all cases where a magistrate shall either commit for trial, or bail the accused, he may cause each of the witnesses who has been examined and has testified to any material fact or circumstance in the case to enter into a recognizance, with or

without surety, at his discretion, in a sum fixed by the magistrate, conditioned for his appearance at the sitting of the court at which the accused is bound or committed to appear. If a witness shall refuse to sign such recognizance when required, he may be committed to prison by the order of the magistrate, and shall be confined until he shall be brought before the court to testify, or until he shall give the recognizance.

14. Those who may have become bail for any one, may at any time discharge themselves, by surrendering him to the custody of the marshal or sheriff of the island in which the court at which he was bound to appear shall sit.

15. The magistrate who shall make any commitment or let any person to bail, shall without any unnecessary delay, at the farthest within ten days, transmit to the clerk or presiding judge of the court which has legal cognizance of the offense charged, all the complaints, depositions, bail bonds, bonds for the appearance of witnesses and other documents in his possession relative to the accusation.

16. The names of all persons who have given bail or have become bound by recognizance to appear in any court, shall be called in open court on the day they are respectively bound to appear, and if they fail to appear before the adjournment of the court, their default shall be entered, and such entry shall be evidence of the breach of their appearance bonds or recognizances.

17. Courts may also, on the motion of the public prosecutor, order the sheriff to arrest and bring before them any person who has been bound by recognizance or summoned to appear and give testimony and who has not attended at the time appointed, and when so arrested, the said witnesses may be also fined in any sum not exceeding one hundred dollars for their neglect, and must remain in custody until they give their testimony and are discharged from farther attendance, or until they give such security as shall satisfy the court, for their appearance to testify.

18. Witnesses bound to appear, and persons let out on bail, must not only attend on the day appointed in their respective obligations, but at such other times as the court shall direct, and the obligation continues until they are discharged by the court.

CHAPTER LI.

FINES—COSTS.

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3. Clerks, justices and other officers to keep an account of fines, etc.
4. Clerks and other officers neglecting to pay over fines, etc.
5. Officers suffering offender to escape.
6. Offender's property liable for costs.
7. When costs are to be paid out of the treasury.

1. Whenever a fine is imposed by any court or magistrate, according to law, upon any person, and such fine shall not be paid within ten days after such imposition, or an appeal taken, where the trial is in a court not of record, the court or magistrate imposing such fine may issue an execution for the same, to be levied upon the offender's property, real or personal.

2. When a fine is not paid immediately following the offender's conviction, he shall be committed to prison there to remain at hard labor or otherwise, in the discretion of the court or magistrate, until such fine is paid, or collected out of the offender's property as prescribed in the above section. Provided, however, that when any poor convict shall have been imprisoned for the space of one year for fine, or for fine and costs only, or for either of them, any two magistrates may order such convict to be brought before them for examination, and if upon enquiry they shall be satisfied that he has not, since his conviction, had any estate, real or personal, with which he could have paid the sum for which he stood committed, and that he is held for no other cause, they may direct the jailor or other person having him in custody, to discharge such convict from prison.

3. Clerks of any court, district justices, and other officers who shall receive any fines, forfeitures or costs, imposed or awarded by any court to the use of the government, shall keep a correct account of the same, with the names of the persons from whom

the same are received, and the dates when they were received; and shall pay over the same to the governors of their respective islands, except that, on the island of Oahu, all fines, forfeitures and costs shall be paid to the minister of finance; and moreover, once in three months shall render an account of the same to said governors, or if on Oahu, to said minister of finance.

4. If any clerk or other officer shall neglect to make such payment, or render such account, it shall be deemed a sufficient cause of removal by the power appointing such officer, and the governor of the island or the minister of finance may sue for and recover of him the amount of such fines, forfeitures and costs, with interest from the receiving of the same, at the rate of twenty per cent. and the costs of suit.

5. If any officer having any person in his custody, by virtue of a sentence of court, for the payment of any sum as a fine, forfeiture or costs, shall voluntarily or negligently suffer such person to escape, he shall be deemed to have received such fine, forfeiture or costs at the time of the escape, and shall be held liable to pay over the same with interest and costs of suit, as provided in the preceding section.

6. Whenever a person shall be convicted of an offense under any provision of the penal code of this kingdom, his property shall be liable for the costs incurred in his prosecution, and the court or magistrate before whom he is tried may issue an execution therefor.

7. When such costs are not paid by the party prosecuted, or collected out of his property, they shall be paid out of the treasury of the kingdom, upon the order of the judge presiding at the trial.

CHAPTER LII.

JURISDICTION OF POLICE COURTS AND DISTRICT JUSTICES IN CERTAIN CASES.

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3. Larceny.
4. Embezzlement.
5. Receiving stolen goods.
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10. Furious and heedless riding, etc.
11. Obstructing and perverting the course of justice.
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13. Drunkenness, blasphemy, profanity.
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16. Vagrants—disorderly persons.
17. Gaming.
18. Disturbing the quiet of the night.
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5. Pursuit and arrest of offenders escaping beyond jurisdiction of the court.
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7. Supreme court may make general rules.
8. Expenses of serving warrants.
9. Powers of justices to hear complaints for violation of the license laws.

1. The police courts of Honolulu, Lahaina and other towns, and also the district justices of the kingdom shall have jurisdiction for the prosecution, trial and sentence to punishment of any person charged with the following offenses, namely:

(1.) Any assault and battery coming under the ninth section of the ninth chapter, where the corporal injury is slight, and where the punishment is by fine not less than six nor more than one hundred dollars:

(2.) Adultery, fornication and all offences mentioned in sections four, five, six and seven of the thirteenth chapter:

(3.) Larceny in the third and fourth degrees, as described in the third and fourth divisions of the fifteenth section of the sixteenth chapter:

(4.) Embezzlement when the amount embezzled is not alleged to exceed twenty dollars, as prescribed in the third section of the eighteenth chapter:

(5.) Receiving stolen goods, when the amount received is not alleged to equal or exceed the value of twenty dollars:

(6.) Gross cheats in the second degree:

(7.) Malicious injuries in the third degree:

(8.) Cruelty to animals:

(9.) Felonious branding of cattle:

(10.) Furious and heedless riding, driving, or conducting animals, or vehicles, and frightening animals, in all cases defined in the twenty-sixth chapter where the punishment prescribed is by fine not less than five dollars nor exceeding one hundred:

(11.) Obstructing and perverting the course of justice, in all cases mentioned in sections 2, 3, 4, 5, 9, 12, of the twenty-ninth chapter, where the punishment prescribed does not exceed imprisonment for one year and fine to the amount of one hundred dollars:

(12.) Affrays:

(13.) Drunkenness, blasphemy, profanity:

(14.) Disturbing religious worship; violating the Sabbath:

(15.) Common nuisances:

(16.) All offenses mentioned in the thirty-seventh chapter, entitled vagrants, disorderly persons:

(17.) Gaming:

(18.) Disturbing the quiet of the night:

(19.) All offenses mentioned in the forty-first chapter, relating to the suppression of drunkenness, etc.:

(20.) Keeping a disorderly house.

2. Every konohiki or other person who shall willfully deprive another of any of his legal rights to fish on any fishing ground, which now is, or may become, free to the use of the people, or who shall willfully exact from another any portion of the fish caught on any public fishing ground, or who shall willfully exact of another, for the use of any private fishery, a greater amount of fish than by law he is entitled to receive as his share, and any tenant or other person who shall willfully deprive any konohiki of his fishing rights, by appropriating to himself the tabooed fish of said konohiki, or otherwise, shall be punished by a fine not exceeding one hundred dollars for every such offense, in the discretion of the court, and in default of the payment of such fine, be imprisoned at hard labor not exceeding three months. (Civil Code, Section 395.)

3. The several district justices shall have power to try and punish all offenses against the provisions of the last preceding section, committed in their respective districts. (Civil Code, Section 396.)

4. The respective police and district justices throughout the kingdom, shall have jurisdiction to try and determine all cases in which any person shall be charged with smuggling, or attempting to smuggle, and all other offenses against any provision of the revenue laws, when the amount of the fine does not exceed five hundred dollars. (Civil Code, 683.)

5. Whenever any warrant of arrest has been issued by any court of competent jurisdiction, and the accused party shall escape beyond the jurisdiction of such court, it shall be lawful for the officer to whom such warrant shall have been directed, to pursue and arrest such accused party in any part of the kingdom; provided, that the warrant shall be first endorsed with proper words of authority from some circuit judge or district justice in the island where the actual arrest shall be made. (1868, p. 21.)

6. Any officer authorized to serve warrants at the place of arrest, may also serve any warrant endorsed as aforesaid.

7. The supreme court may from time to time, by general rules, prescribe forms for carrying this chapter into effect, and make all other needful regulations.

8. The expenses of serving such warrants shall be adjusted by the court originally issuing the warrant, and accounted for out of any fines and penalties in its possession.

9. That the several police and district justices throughout the kingdom shall have jurisdiction to hear and determine, subject to appeal, all complaints for any violation of the license laws, without limit in respect to the amount of penalty to be imposed for such violations. (1860, p. 30.)

CHAPTER LIII.

REWARDS TO SHERIFFS, CONSTABLES AND OTHER PROSECUTORS.

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SECTION 1. One half the fines to go to sheriff or others in what cases.
2. When a person not an officer shall inform and prosecute.
3. Special rewards in certain cases.
4. Informer not to be admitted as a witness unless he first relinquish all claims to reward.

1. Where any person is convicted under this code of an offense within the jurisdiction of police and district courts, and sentenced to pay a fine, there shall be paid to the sheriff, prefect, constable, officer or other person who shall inform against and prosecute such offender, one half of the amount of the fine which shall be actually paid by such convict: Provided, however, that in those cases where the constable or other officer is paid a salary for his services, the reward shall go to the marshal of the kingdom, in cases tried on the island of Oahu, and to the respective sheriffs, in cases tried on the other islands; and further provided, that in all other cases where the constable or other officer receives no salary, he shall pay the one-tenth of all rewards received by him to the officer next above him.

2. Where a person not an officer shall inform and prosecute another for an offense under this code within the jurisdiction of any police or district court, and any constable or other officer shall arrest such offender and bring him to trial, one-fourth of the fine actually paid by such offender shall go to the informer and prosecutor, and one-fourth to the constable or officer making the arrest, unless he is a salaried officer, in which case, the one-fourth shall go to the marshal and sheriffs as specified in the preceding section.

3. There shall be allowed and paid to the person who shall inform and prosecute in the cases hereafter mentioned in this chapter, the following rewards, that is to say; the sum of fifty

dollars for each person convicted and sentenced for the offense of counterfeiting any gold or silver coin, current by law or usage; or for the offense of possessing with the intent to utter as true, or of knowingly uttering as true, any such counterfeit coin; and the sum of one dollar for each person convicted and sentenced for the offense of being a vagrant under the provisions of the thirty-seventh chapter of this code.

4. No person who shall inform against and prosecute another for an offense in any case where he would be entitled to a reward under the provisions of the first and second sections of this chapter, shall be admitted as a witness against the person prosecuted, unless he shall first relinquish all claim to any such reward: Provided always, that in cases of necessity, no such informer and prosecutor shall be excused from giving his evidence on account of his refusal to relinquish such claim; but may be compelled so to do without having any claim to reward in case of conviction and sentence.

CHAPTER LIV.

TO PREVENT THE CARRYING OF DEADLY WEAPONS.

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2. Persons authorized, etc.

1. Any person not authorized by law, who shall carry, or be found armed with, any bowie-knife, sword-cane, pistol, air-gun, slung-shot, or other deadly weapon, shall be liable to a fine of no more than thirty, and no less than ten dollars, or in default of payment of such fine, to imprisonment at hard labor for a term not exceeding two months, and no less than fifteen days, upon conviction of such offense before any district magistrate, unless good cause be shown for having such dangerous weapons; and any such person may be immediately arrested without warrant by the marshal, or any sheriff, constable, or other officer or person, and be lodged in prison until he can be taken before such magistrate.

2. The following persons are hereby declared to be authorized to bear arms, viz: All persons holding official, military or naval rank, either under this government, or that of any nation at peace with this kingdom, when worn for legitimate purposes.

CHAPTER LV.

LICENSES.

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3. Persons to whom awa can be sold, and the quantity.
4. Penalty for selling without a license and contrary to the provisions of this law.
5. Fine for using awa without prescription of some licensed physician.
6. The licensing of theatres, hulas, and other shows.
7. Chief of police of any town or district to regulate the same.
8. Fine for such public exhibition without license.
9. No license for Hawaiian hula except in Honolulu—other public shows, licenses granted only for Honolulu and Lahaina.
10. Licenses for public shows not transferable—to be signed by Minister of Interior, etc.
11. Dance house license not to be granted to any one holding a spirit license.
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51. Physician to keep record of all his business, to be open to inspection—penalty.
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56. Penalty for selling beef without license.
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59. Inspectors of stallions—appointment and duty.
60. Licenses to letters of stallions—penalty—transferable.
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OF THE SALE OF AWA.

1. The minister of the interior may grant licenses for the term of one year to sell awa, to any person of good character, making application for the same, on receiving from the applicant the sum of five hundred dollars in Honolulu, three hundred dollars in Lahaina or Hilo, and one hundred dollars in each other district;

Provided, that no more than three licenses shall be granted in Honolulu, two in Lahaina and Hilo, respectively, and one in each other collection district. It being, however, further expressly understood, that every one wishing for the licenses, shall make his application on or before the first day of November of each year, and the license shall take effect on the first day of January following; and if there shall be more applicants than the number of licenses which may be allowed by law, the licenses shall be set up at auction, at such place in the district as the minister of the interior may direct, at an upset price, not less than the price herein above prescribed. (1864, p. 3.)

2. Upon receiving from the minister of the interior a license to sell awa, the licensee shall give to the minister of the interior a bond in the penal sum of two hundred dollars, with sufficient surety or sureties, to be approved by said minister, conditioned that he will sell no awa contrary to the provisions of this statute; that he will preserve every certificate on which he may have sold awa, and also keep an account of all purchases and sales made by him, under his license, which shall be open for the inspection and information of all who may desire to examine the same. (Civil Code, Sec. 88.)

3. It shall not be lawful for the licensed agents of government to sell awa to any other persons than those buying it in quantities exceeding ten pounds, for exportation, or to duly licensed physicians and surgeons, or to such persons as may obtain certificates from any such physician or surgeon, or from some person appointed by the minister of the interior for that purpose, stating that such person is afflicted with a disease for which awa is a proper medicine, and specifying the quantity required. (Civil Code, Section 89.)

4. Every person who shall sell awa without a license so to do, or, having a license, shall sell contrary to the provisions of this law, shall be subject to a fine not exceeding twenty-five dollars, in the discretion of the court. Provided, always, that nothing in this section contained shall be so construed as to prevent any duly licensed physician or surgeon from selling any awa, as a medicine, which he may have previously purchased of a government agent. (Civil Code, Section 90.)

5. Every person who shall use awa, unless the same shall

have been prescribed as a medicine for him by some licensed physician or surgeon, shall be subject to a fine of five dollars. (Civil Code, Section 91.)

THEATRES, CIRCUSES AND PUBLIC SHOWS, HULAS AND DANCE HOUSES.

6. The minister of the interior may license any theater, circus, Hawaiian hula, public show or other exhibition, not of an immoral character, to which admission is obtainable by the payment of money, for such time, not exceeding one year, and upon such terms and conditions as he shall think reasonable: provided, however, that not less than ten dollars shall be required for each performance licensed. (Civil Code, Sec. 96.)

7. The chief of police in any town or district where any theter, circus, Hawaiian hula, or other public show shall be exhibited, may regulate the same in such manner as he shall think necessary for the preservation of order, decorum, and the public peace or morals. (Civil Code, Sec. 97.)

8. Any person who shall set up or promote any such theater, circus, Hawaiian hula, show or exhibition, or shall publish or advertise the same, or otherwise aid or assist therein, without a license first obtained as provided in section 6, or contrary to the terms and conditions of such license, or while the same is suspended, or after the same shall have expired, without obtain a new license, shall be fined a sum not exceeding one hundred dollars, or imprisoned at hard labor not exceeding three months, in the discretion of the court. (1864, p. 4.)

9. No license for a Hawaiian hula shall be granted for any other place than Honolulu, and no license for any theater, circus, or other public show or exhibition, shall be granted for any other place than Honolulu or Lahaina. (Civil Code, Sec. 99.)

10. Every license for a theater, circus, Hawaiian hula, or other public show or exhibition, shall be signed by the minister of the interior, and impressed with the seal of his department, and no such license shall be transferable. (Civil Code, Sec. 100.)

DANCE HOUSES.

11. The minister of the interior may, in his discretion, grant to any person applying therefor in writing, a license for one year, to keep a public dance house in the city of Honolulu, upon receiving at the hands of such applicant the sum of one hun-

dred dollars, for the benefit of the royal exchequer; provided, *however, that no such license shall be granted to any person* holding a spirit license, nor for any premises occupied, owned or leased by any such person. (1864, p. 31.)

12. Any person who shall, after the publication of this chapter, allow the assembling of native females at any public dance, or keep a dance hall for such purpose, in any building or premises owned or leased by him, without first obtaining a license therefor, as prescribed in section 11, shall be fined in a sum not to exceed one hundred dollars, in the discretion of the court.

13. If any person licensed as in the 11th section hereinabove provided, *shall be proved to have any business connection with* any person licensed to retail spirituous liquors, such licensee shall forfeit his license, and be fined not to exceed fifty dollars.

MARRIAGE LICENSES.

14. It shall be the duty of the minister of the interior, upon the nomination of the board of education, to appoint a suitable number of agents in the several districts of the kingdom, whose duty it shall be to grant marriage licenses, agreeably with the laws; which agents shall be entitled to the fee of twenty-five cents for each license, to be paid by the party applying therefor. Any such agent who shall charge more than that amount for any such license, or who shall receive a bribe for the same, shall be liable to a fine not exceeding fifty dollars, upon conviction before any police or district justice. (1864, p. 49.)

CARRYING PASSENGERS BETWEEN THE ISLANDS.

15. From and after the first day of February, 1865, it shall not be lawful for any vessel to carry passengers between the different islands of the kingdom, except such vessels as shall be especially licensed for that purpose, under a penalty of twenty dollars for each passenger so carried, to be recovered before any police or district justice. (1864, p. 51.)

16. No vessel shall carry more than one passenger for every two tons registered burthen, excepting steam vessels, the same being allowed to carry two passengers for every three tons burthen; and in case of any violation thereof, the master of such vessel shall be liable to a fine of five dollars for each passenger so carried, the same to be recovered, for the use of the Hawaiian

government, before any police or district justice. And each vessel licensed to carry passengers between the islands shall carry, on all her passages, secured on deck, one spare extra cask, of the capacity of at least two barrels, filled with water, and under her deck, easily accessible, as many barrels of good sound bread or rice, and salt provisions, and water, as may, from time to time, be required by the harbor master of Honolulu; and for disobedience to the orders of the harbor master, by not carrying the quantity of water and provisions required and commanded by him, the vessel, the master of which has so neglected to obey the order of the said harbor master, shall be liable to have her license revoked by the collector general of customs, and the master shall be further liable to a fine not exceeding the sum of one hundred dollars, to be recovered before any police or district justice. (1868, p. 43.)

17. It shall not be lawful for any vessel engaged in inter-island navigation to receive on board, at either of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe or Kauai, any female under the age of twenty-five years, with the intention of affording a passage for such female to Oahu, or to bring any female under the said age of twenty-five years from one of the aforesaid islands to Oahu, unless such female shall first have produced and delivered to the master or supercargo of the vessel a passport, signed by some person duly authorized, as in the succeeding section set forth. And the master of any vessel who shall afford a passage to any female, in contravention of this law, shall be fined not less than five nor more than twenty-five dollars for each passenger so carried in contravention of this law. (1864, p. 53.)

18. The master or supercargo of every vessel licensed to carry passengers, immediately on his arrival at Honolulu, shall deliver to some officer of the customs or police, or to some other person authorized thereto by the governor of Oahu, all the passports of the passengers by his vessel; and it shall be the duty of the person receiving the same to compare the number of passports with the number of persons on board the vessel liable to the law, and to verify the description, if there be any description on the passport, and to report the passports and all information pertaining to them to the headquarters of the police at Honolulu. And every female under the age of twenty-

five years, whose habitual place of residence is on one of the other islands, who shall have visited Oahu without having procured a passport, as in the preceding sections set forth, shall be liable to be arrested and sent back to her place of residence, at the expense of the vessel on which she came to Oahu.

VENDORS OF GOODS, WARES AND MERCHANDISE.

19. No person holding a license to sell goods, wares and merchandise at wholesale, unless he also holds a license to sell the same at retail, shall sell such articles otherwise than by the entire box, bale, sack, case, basket, crate, barrel, or cask—or if dry goods, by the piece—or, if sold in none of the ways above enumerated, then by the hundred pounds; and no person holding only a license to sell goods, wares and merchandise at retail, shall sell the same except in quantities less than those above specified. (Civil Code, Sec. 60.)

20. All licenses to sell goods, wares and merchandise, whether at wholesale or retail, shall contain a condition that the licensee shall not sell or furnish opium or any preparation thereof, nor any poisonous drug, without license obtained according to law, under pain of the forfeiture of his license, and incurring the penalty prescribed by law for that offense; and that he shall not sell or furnish spirituous liquors or any other intoxicating drinks, without express license therefor obtained according to law, upon pain of forfeiting his license and incurring such penalties as the law may, from time to time, prescribe for selling or furnishing spirituous liquors or other intoxicating drinks without license. (Civil Code, Sec. 61.)

21. Every person who shall sell any goods, wares or merchandise of foreign product or manufacture without license, or in contravention of section 19, shall be fined in a sum not exceeding five hundred dollars, or in default of payment, imprisoned at hard labor not exceeding six months, in the discretion of the court. (Civil Code, Section 62.)

AUCTIONEERS.

22. Nothing relating to auctioneers, shall extend to or affect sales made by any sheriff, deputy sheriff, constable, pound master, collector of taxes, executor, administrator or guardian, required or authorized by law to sell any real or personal estate by public auction. (Civil Code, Sec. 69.)

23. Every person other than those mentioned in section 22, who shall sell any property at auction without first obtaining a license, shall be fined in a sum not exceeding one thousand dollars, or imprisoned at hard labor not exceeding six months, in the discretion of the court. Nothing in this section contained shall be construed to extend and apply to any person appointed by any auctioneer to act on his account, provided such person shall be a Hawaiian subject; and further, that said auctioneer shall be responsible for his acts as such agent. (Civil Code, Section 70.)

COASTING TRADE.

24. No vessel shall engage in the coasting or carrying trade having on board any spirits, wines, liquors, stores, or articles of merchandise which have not paid the legal duties in this kingdom, under penalty of not less than fifty, nor more than one thousand dollars, in the discretion of the court. (Civil Code, Section 55.)

KEEPERS OF HOTELS AND VICTUALING HOUSES.

25. Every keeper of a hotel or victualing house shall, at all times, have a board or sign affixed to his house, or in some conspicuous place near the same, with his name at large thereon, and the employment for which he is licensed, under penalty of being fined twenty-five dollars. (Civil Code, Sec. 74.)

26. No keeper of a hotel or victualing house shall suffer any person in or about the same to practice gaming with any dice, cards, bowls, billiards, quoits, or other implements used in gaming, under penalty of being fined twenty-five dollars. (Civil Code, Section 75.)

27. Every person who shall keep a hotel or victualing house without license, shall be fined not exceeding one hundred dollars, or be imprisoned at hard labor not exceeding six months, in the discretion of the court. (Civil Code, Sec. 77.)

KEEPERS OF BILLIARD TABLES AND BOWLING ALLEYS.

28. No keeper of a billiard table or bowling alley shall suffer the same to be used on Sunday; nor allow any gaming on such table or alley, under penalty of being fined twenty-five dollars. (Civil Code, Sec. 80.)

29. Every person who shall keep a billiard table or bowling alley without license, shall be fined not exceeding one hundred dollars, or be imprisoned at hard labor not exceeding six months, in the discretion of the court: provided, that nothing in this section contained shall be construed as extending to any billiard table or bowling alley kept by any person for private use. (Civil Code, Sec. 82.)

BOATS.

30. The minister of the interior may grant a license to ply boats for hire in the harbor of Honolulu, Lahaina or Hilo for the term of one year, upon receiving for the boats for the harbor of Honolulu, twelve dollars for every boat with four or more oars, and eight dollars for every boat with less than four oars; and for the boats for the harbors of Lahaina and Hilo, eight dollars for every boat with four or more oars, and four dollars for every boat with less than four oars. (Civil Code, Section 101.)

31. The owner of any boat duly licensed for the harbor of Honolulu shall be entitled, if hired on time, to charge one dollar for each passenger for the first hour, and fifty cents for each succeeding hour, if the boat have four or more oars; and only half of these fares, if the boat have less than four oars.

If hired by distance, twenty-five cents for each passenger to and from any ship or point within the inner buoy; fifty cents to and from any ship or point between the inner and outer buoys; and two dollars to and from any ship or point in the anchorage outside of the buoys, if the boat have four oars; and only half of said fares, if the boat have less than four oars: Provided always that, if the boat shall be detained by any passenger alongside of any ship or at any point over fifteen minutes, the owner shall be entitled to charge fifty cents additional for every half hour of such detention. (Civil Code, Sec. 102.)

32. Any person plying a licensed boat who shall refuse to take a passenger at the rates prescribed in the preceding section, or who shall charge any person more than said rates, shall be fined five dollars. (Civil Code, Sec. 103.)

33. The owner of any licensed boat shall, upon the written order of the minister of the interior, furnish such boat, with the proper number of oarsmen, for the public service, at the rate of

four dollars per day for any boat with four oars, and two dollars per day for any boat with less than four oars, under a penalty of not more than fifty dollars, in the discretion of the court. (Civil Code, Section 106.)

34. The owner of every licensed boat shall have and keep the number of her license, painted, conspicuously, upon both her bows, under the penalty of five dollars. (Civil Code, Sec. 108.)

FOR LETTING HORSES.

35. The minister of the interior may grant a license for one year to any person for the letting of horses, to be used either under the saddle or in harness, in Honolulu or Lahaina, upon receiving five dollars for every horse intended to be let by the applicant; and the number of horses shall be prescribed in the license. (Civil Code, 110. 1864, p. 28.)

36. All such licenses shall be numbered consecutively, and shall contain a proviso to the effect that the licensee shall not let any of his horses to be used on Sunday, under a penalty of five dollars for each horse so let. (Civil Code, Sec. 111.)

37. Every licensee shall cause the number of his license to be legibly marked and exhibited on the brow band of the bridle of each horse let by him, under the penalty of five dollars for each horse not so numbered. (Civil Code, Sec. 112.)

38. If any person shall let a horse to another who is at the time in a state of intoxication, and allow such person to mount and ride off, he shall be fined five dollars. (Civil Code, Sec. 113.)

39. It shall be the duty of every person letting a horse, to caution the person hiring the same against fast riding, under a penalty of five dollars. (Civil Code, Sec. 114.)

40. All horses kept for hire shall be liable to be called into the public service, upon the written order of the minister of the interior, fully equipped by the owners thereof, and such owners shall be entitled to receive, for the services of each horse, the sum of two dollars per day. (Civil Code, Sec. 115.)

41. Any person letting a horse for hire, in Honolulu or Lahaina, without a license, shall be fined in the sum of ten dollars. (Civil Code, Sec. 116.)

VENDORS OF OPIUM.

42. The minister of the interior may at any time grant licenses for the term of one year, to not more than two persons resident in Honolulu, and one at Lahaina, to import and sell opium to Chinamen for the term of one year, in the districts of Honolulu and Lahaina, upon receiving the sum of not less than two thousand dollars for each license so granted: Provided, that the said licenses shall be exposed at public auction at the upset price of two thousand dollars, and sold to the highest bidder. (1860, p. 22.)

43. Before receiving such license, the licensee shall give to the minister of the interior a bond in the penal sum of one thousand dollars, with sufficient surety or sureties, to be approved by said minister, conditioned that he will not sell or furnish opium, or any preparation thereof, to any person except to Chinamen.

44. Upon the violation of any conditions of the license granted under this chapter, the licensee shall forfeit his license and become liable on his bond for the amount of the penalty.

45. Any person, except licensed physicians, who shall import, sell or furnish any opium, or any preparation thereof, without a license as above provided, shall be fined not less than one hundred dollars, nor more than five hundred dollars, or to be imprisoned at hard labor for a term not exceeding six months, in the discretion of the court.

46. Every license to import and sell import opium shall be signed by the minister of the interior and impressed with the seal of the department, and no such license shall be transferable.

PRACTICING MEDICINE.

47. It shall not be lawful for any person to practice in this kingdom as a physician or surgeon, for compensation or reward, unless he shall have first presented to the board of health or to such examiners as said board may appoint for that purpose, satisfactory evidence of his professional qualifications and good moral character, and obtained a certificate of approval from said board, and a license from the minister of the interior. Any person violating the provisions of this section shall, upon conviction thereof, be liable to a penalty of one hundred dollars for each offense. (1864, p. 7.)

48. His Majesty the King shall appoint a board of health of native born Hawaiians, consisting of three persons, who shall serve during the King's pleasure, and whose duty it shall be to examine and enquire into the qualifications and good moral character of native Hawaiians who wish to practice medicine in this kingdom. (1868, p. 23.)

49. Said board, or a majority thereof, shall give to each candidate of whose qualifications they are satisfied, a certificate to that effect.

50. Upon the receipt of the certificate, as in section 49 set forth, the minister of the interior is hereby authorized, in his discretion, to grant to the applicant, upon the receipt of ten dollars, a license to practice medicine for one year.

51. Every physician thus licensed shall keep a written record of all his business, setting forth the nature of the disease, the medicines used, the number of cures effected, the number of deaths, the names, sexes and places of residence of his patients; which book of record shall at all times be open to the inspection of the Hawaiian board of health, or the minister of the interior, or his agent; and any practitioner who shall not keep this record properly, or shall fail or refuse to exhibit the same when called upon to do so, shall, upon convictien thereof before a police or district justice, be fined in a sum not exceeding one hundred dollars.

52. Any practitioner who shall be convicted of the practice of anaana, hoopiopio, hoounauna or hoomanamana, shall forfeit his license.

53. Any native Hawaiian who shall practice medicine without having obtained a license, as hereinbefore set forth, shall, upon conviction thereof before a police or district justice, be fined in a sum not less than twenty nor more than one hundred dollars.

SLAUGHTER AND SALE OF BEEF.

54. The minister of the interior may at any time license, for the term of one year, any applicant to slaughter and sell beef, either in Honolulu, Lahaina, Wailuku, Hilo, Kawaihae, Kealakekua, Kaawaloa, Koloa or Hanalei, upon receiving for such license the sum of twenty dollars; provided, however, that this section shall not be held to apply to salted or corned beef brought from other parts of the kingdom. (1868, p. 41.)

55. Upon granting such license, said minister shall exact of the applicant a bond in the penal sum of two hundred dollars, with good and sufficient surety, to be approved by said minister, conditioned that such applicant will keep a full and accurate register of the brands of every animal which he shall kill or sell, together with the name of the owner, the name of the person or persons who delivered the animal, with the date when delivered, and when killed ; and that he will at all times keep said register ready and open for the inspection and information of all who may desire to examine the same.

56. Whoever shall slaughter or sell beef in Honolulu, Lahaina, Wailuku, Hilo, Kawaihae, Kealakekua, Kaawaloa, Koloa, or Hanalei, without first obtaining a license therefor, as provided in section 54 of this chapter, shall be subject to a fine of not less than ten nor more than twenty-five dollars for each offense, in the discretion of the court.

57. Every license to slaughter and sell beef shall be signed by the minister of the interior, and impressed with the seal of his department, and no such license shall be transferable.

58. This act shall become a law at the expiration of thirty days from the date of its passage; and all laws or parts of laws inconsistent herewith are hereby repealed.

STALLIONS.

59. The minister of the interior shall appoint one person in each of the taxation districts of the kingdom, not being an owner of a stallion kept for hire, to be inspector of stallions, whose duty it shall be, upon the receipt of one dollar, to examine any stallion presented for his inspection, upon such days as he shall appoint within his taxation district ; and if, upon such examination, any stallion so presented shall appear to the inspector to be a suitable horse for breeding, he shall deliver a certificate to that effect to the owner of such stallion, free of charge, which certificate shall entitle the owner to keep such stallion on his own premises, solely for the use of his own stock. And in case the owner or owners of such stallion shall not obtain such certificate, he shall be liable to a fine of one dollar for each and every day's violation of this section, which penalty shall be recoverable before any police or district justice ; provided, that

this section shall not apply to stallions that have not attained the age of twelve months. (1868, p. 44.)

60. The minister of the interior shall grant a license, upon the payment of five dollars, to any person presenting a certificate from the inspectors as provided in section 59, to let for hire the stallion named in such certificate, for the purpose of breeding; provided, that the said stallion shall have attained the age of eighteen months. Such license shall be good for one year from its date, and in event that any person shall violate this section by letting for hire any stallion without first obtaining a license as herein provided, he shall be subject to a fine of one hundred dollars, recoverable before any police or district justice. Such license so granted, shall be transferable, at the office of the department of the interior, upon sale of the stallion by the licensee.

61. Every person on whose land any stallion of twelve months old or upwards shall be found trespassing, may sue for and recover, before any police magistrate or district justice, the sum of ten dollars for every such trespass, from the owner of any such stallion, exclusive of the costs of such suit; and in case the stallion shall be unbranded, or in case the owner cannot be discovered within five days from the time when such stallion shall have been found trespassing, then any owner of land on which any such stallion shall be found so trespassing, shall be authorized to castrate such stallion, at the risk of the owner thereof.

CHAPTER LVI.

TO PREVENT MARRIED PERSONS FROM DESERTING ONE ANOTHER. (1860, p. 31.)

CONTENTS.

SECTION 1. Warrant to issue for desertion of married persons.
2. Reconciliation to be secured if practicable.
3. Party refusing to return.
4. Defence.

1. Upon the sworn complaint before any judge of a court of record, or police or district justice, by any party, that his wife has, without cause, forsaken his bed and board, and refused and still refuses to cohabit with him; or that her husband has, without cause, deserted her, and neglects to maintain, provide for and support her, as in section 1286 Civil Code provided, such justice may issue a warrant to apprehend and bring before him the party so complained of. (17th June, 1862.)

2. Said justice shall examine into, hear and determine the complaint, and shall secure, if practicable, a reconciliation between the parties; if they become reconciled to each other no penalty shall be imposed.

3. But if the offending party refuse to return and perform the duties of the marriage contract, he or she may be punished by imprisonment at hard labor for a term not exceeding one month, in the discretion of the judge.

4. In any suit brought for desertion, it shall be permitted the defendant to prove in self-justification the ill conduct of the complainant, and on establishing such defense to the satisfaction of the court, the suit may be dismissed, the judge awarding the costs as in civil cases, and execution may be issued therefor.

CHAPTER LVII.

TO MITIGATE THE EVILS AND DISEASES ARISING FROM PROSTITUTION. (1860, p. 33.)

CONTENTS.

SECTION 1. Registry of common prostitutes.
2. Penalty for failure of registration.
3. Examination by a physician.
4. Penalty for non-attendance for examination.
5. Compensation of examining physician.
6. Sheriff of Oahu charged with execution of this law.
7. Arrest of females complained of as prostitutes—duties of magistrates—penalty.

WHEREAS, The evils and diseases arising from prostitution are wide spread and apparent, carrying death to thousands of the Hawaiian race, and preventing the increase of the population; and it being impossible to suppress and crush out prostitution; but that its evils and diseases may be combated, circumscribed and diminished:

1. Every common prostitute in and around the city of Honolulu shall register with the sheriff of the island of Oahu her name, place of residence, place of birth, and age.

2. All females known to be common prostitutes, who shall fail to cause themselves to be registered according to section 1st, shall, on complaint and conviction before the police magistrate of Honolulu, be imprisoned for not less than thirty nor more than sixty days, and be subject to the rules of such place of confinement.

3. Such females, registered as above, shall attend and be examined by a physician to be appointed by the minister of the interior, at least once in every two weeks, at some convenient place, of which public notice shall be given, and if found diseased, such females shall be treated free of charge for such disease, subject to such regulations and restriction as may be prescribed by the said physician.

4. Any female registered as above who shall not attend for examination as above provided, or who shall not obey the prescriptions of the physician, upon information thereof to the sheriff such female may be summarily imprisoned for not less than thirty nor more than sixty days: Provided, that nothing herein contained shall imply that any female free from disease, so registered, may not at any time forsake prostitution, have her name erased from the registry, and no longer remain under the provisions of this section.

5. The physician appointed as above shall be paid such reasonable compensation as may be determined upon by the minister of the interior, out of the funds appropriated from time to time by the legislature to be expended under this chapter.

6. The sheriff of Oahu shall be charged with the execution of this law, and shall be further empowered to establish such police regulations for the better carrying into effect the object contemplated by this law, as he may deem requisite, subject to the approval of the minister of the interior; and it shall be his duty to render a quarterly report of all matters connected with the execution of this law to the minister of the interior, and biennially through the said minister to the legislature.

7. It shall be lawful for the police justices of Honolulu, Lahaina and Hilo, respectively, to cause to be arrested and brought before them, any female that may be complained of by the sheriff or prefect of police, as being a prostitute, and if it shall appear to the satisfaction of the justice that such female is a prostitute, and that her father, mother, or other guardian, reside in any other district than that in which such justice has jurisdiction, or that such female has left her native district and come to reside within the district where such justice has jurisdiction, for the purpose of prostitution, then such justice may order such female to return to her parents or guardian, if she have any, or to the district from whence she came, within forty-eight hours from the time of such order; and if such female be found within his district after the expiration of such period of forty-eight hours, the justice may punish her by imprisonment at hard labor, or solitary confinement, for a period not exceeding thirty days upon the first complaint, and upon any subsequent complaint, for a period not exceeding sixty days. It shall

be the duty of all judicial and police officers, school-inspectors and school-teachers, to inform the police justices of the seaports aforesaid, of any females belonging to their respective districts whom they may suspect of having resorted to said seaports for the purposes of prostitution, that they may be dealt with as hereinbefore provided. (Civil Code, Sec. 1004.)

CHAPTER LVIII.

TO PREVENT THE SPREAD OF DISEASE AMONG SHEEP.

CONTENTS.

SECTION 1. Driving of any diseased sheep without notice.
2. Penalty.

1. It shall not be lawful for any person to drive sheep infected with scab or other infectious or contagious disease, along any public road through the land of another occupied or used as a sheep pasture, without giving one day's notice to the owner or owners of the sheep on said pasture, his or their agents. (1862, p. 30.)

2. The owner of any sheep driven in contravention of section 1 of this chapter, shall be liable, on conviction before any police or district justice, to a fine not exceeding fifty dollars, one half to go to the informer, and one half to the royal exchequer, and he shall also be liable to civil suit for damages.

CHAPTER LIX.

THE PUBLIC HEALTH.

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1. There shall be appointed by the King in privy council, upon the nomination of the minister of the interior, a board of health for the kingdom, consisting of three persons, who shall serve during the King's pleasure, and be charged with the general oversight and care of the public health. (Civil Code, Section 278.)

2. It shall not be lawful for any foreigner, whether naturalized or otherwise, to practice in this kingdom as a physician or surgeon, for compensation or reward, unless he shall have first presented to the board of health, or to such examiners as said board may appoint for that purpose, satisfactory evidence of his professional qualifications and good moral character, and obtained a certificate of approval from said board, and a license from the minister of the interior. Any person violating the provisions of this section shall, upon conviction thereof, be liable to a penalty of one hundred dollars for each offense. (Civil Code, Section 279.)

3. Said board of health may appoint suitable agents in such localities as it may deem necessary, to carry into effect all regulations for the public health; and it shall hold such agents accountable for all moneys received and disbursed by them, on account of the public health, and also for the manner in which they may discharge their several duties. (Civil Code, Sec. 280.)

4. The board of health shall make such regulations respecting nuisances, sources of filth, and causes of sickness, within the respective districts of the kingdom, and on board of any vessels, as it shall judge necessary for the public health and safety. (Civil Code, Section 281.)

5. Said board shall also make such regulations as it may judge necessary for the public health and safety, respecting any articles which are capable of containing, or conveying any infection or contagion, or of creating any sickness, when such articles

shall be brought into, or conveyed from any district, or into or from any vessel. (Civil Code, Section 282.)

6. Said Board shall also make all regulations which it may judge necessary, for the interment of the dead, and respecting cemeteries and burying grounds. (Civil Code, Sec. 283.)

7. Notice shall be given by the board of health of all regulations made by it, by publishing the same in some newspaper of the district, or where there is no such newspaper, by causing them to be posted in three public places of the town or district; and such notice of said regulations shall be deemed legal notice to all persons. (Civil Code, Sec. 284.)

8. Every person who shall violate any regulation of the board of health, after the same shall have been published, as provided in the last preceding section, shall be fined not exceeding one hundred dollars. (Civil Code, Sec. 285.)

9. The board of health and its agents shall examine into all nuisances, sources of filth and causes of sickness, on shore, or in any vessel, and shall cause the same to be destroyed, removed or prevented, as the case may require. (Civil Code, Sec. 286.)

10. Whenever any such nuisance, source of filth, or cause of sickness shall be found on private property, the board of health or any health agent shall order the owner or occupant thereof, at his own expense, to remove the same within forty-eight hours; and if the owner or occupant shall neglect so to do, he shall be fined in a sum not exceeding one hundred dollars. (Civil Code, Section 287.)

11. If the owner or occupant shall not comply with such order of the board of health, the board, or any of its agents, may cause such nuisance, source of filth or cause of sickness to be removed; and all expenses incurred thereby shall be paid by the said owner or occupant, or by such other person as shall have caused or permitted the same. (Civil Code, Sec. 288.)

12. When any person shall be convicted for a common nuisance, that may be injurious to the public health, the court may, in its discretion, order it to be removed or destroyed, at the expense of the defendant, under the direction of the board of health, or otherwise, as it may deem proper. (Civil Code, Section 289.)

13. Whenever any member of the Board of Health, or its agent, shall think it necessary for the preservation of the lives or health of the inhabitants, to enter any land, building or vessel, for the purpose of examining into and destroying, removing, or preventing, any nuisance, source of filth, or cause of sickness, and shall be refused such entry, such member or agent may make complaint to any Police or District Justice, who may thereupon issue a warrant directed to any sheriff, deputy sheriff, or constable, commanding him to take sufficient aid, and, being accompanied by such member of the Board of Health, or agent, between the hours of sunrise, and sunset, to repair to the place where such nuisance, source of filth, or cause of sickness, complained of may be, and the same to destroy, remove, or prevent under the directions of such member or agent. (Civil Code, Section 290.)

14. The Board of Health and its agents, may establish quarantine grounds in the several districts, as they may judge best. (Civil Code, Section 291.)

15. The Board of Health may, from time to time, establish the quarantine to be performed, by all vessels arriving at any port of the kingdom ; and may make such quarantine regulations, as it shall judge necessary for the health and safety of the inhabitants. (Civil Code, Section 292.)

16. The quarantine regulations so established, shall extend to all persons, and all goods and effects, arriving in such vessels, and to all persons who may visit or go on board of the same. (Civil Code, Section 293.)

17. Notice shall be given of such quarantine regulations, by publication in the manner provided in section 1 ; and after such notice shall have been given, any person who shall violate any such quarantine regulations, shall be fined a sum not less than five, nor more than five hundred dollars. (Civil Code, Section 294.)

18. Any vessel which shall refuse to submit to quarantine, or which shall leave the quarantine ground before the expiration of the quarantine imposed upon her, or which shall be the means of clandestinely introducing into this kingdom any contagious disease, or any disease dangerous to the public health,

shall be liable to seizure, confiscation and sale, for the benefit of the public treasury. (Civil Code, Section 295.)

19. The Board of Health, and its agents, may at all times cause any vessel arriving, when such vessel, or the cargo thereof, shall in their opinion be foul, or infected, so as to endanger the public health, to be removed to the quarantine ground, and to be thoroughly purified at the expense of the owners, consignees, or persons in possession of the same ;. and they may also cause all persons arriving in, or going on board of any such infected vessel, or handling such infected cargo, to be removed to some place of safety, there to remain under their orders. (Civil Code, Section 296.)

20. If any master, seaman, or passenger, belonging to any vessel, on board of which any infection may then be, or may have lately been, or suspected to have been, or which may have been at, or which may have come from, any port where any infectious distemper prevailed, that may endanger the public health, shall refuse to make answer on oath to such questions as may be asked him, relating to such infection or distemper, by the Board of Health, or its agents, such master, seaman, or passenger, so refusing, shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor not exceeding twelve months, or both, in the discretion of the court. (Civil Code, Section 297.)

21. All expenses incurred on account of any person, vessel, or goods, under any quarantine regulations, shall be paid by such person, vessel, or owner of such vessel or goods respectively. The roadstead of Honolulu is hereby designated as quarantine ground. (Civil Code, Section 298.)

22. It shall be the duty of the Marshal, and all officers of police, and physicians, to report to the Board of Health, or its nearest authorized agent, the existence of any nuisance, injurious to the public health, of which either of them may be cognizant, as soon as possible after it shall come to their knowledge. (Civil Code, Section 299.)

23. It shall be the duty of every physician having a patient infected with the small pox, or any other disease dangerous to the public health, to give immediate notice thereof to the

Board of Health, or its nearest agent, in writing, and in like manner to report to said Board, or its agent, every case of death which takes place in his practice, from any such disease; and every physician who shall refuse or neglect to give such notice, or make such report, shall be fined for each offense a sum not less than ten, nor more than one hundred dollars. (Civil Code, Section 300.)

24. It shall be the duty of every householder, keeper of a boarding or lodging house, or master of a vessel, to report immediately to the Board of Health, or its nearest agent, any person in or about their house, or vessel, whom they shall have reason to believe to be sick, or to have died of, the small pox, or any other disease dangerous to the public health, under a penalty of not less than five, nor more than one hundred dollars, for each offense. (Civil Code, Section 301.)

25. When any person shall be infected with the small pox, or other sickness dangerous to the public health, the Board of Health, or its agent may, for the safety of the inhabitants, remove such sick or infected person to a separate house, and provide him with nurses and other necessaries, which shall be at the charge of the person himself, his parents or master, if able, otherwise at the charge of the government. (Civil Code, Section 302.)

26. If the infected person cannot be removed without danger to his life, the Board of Health, or its agent, may make provision for him, as directed in the last preceding section, in the house in which he may be; and, in such case, they may cause the persons in the neighborhood to be removed, and may take such other measures as they shall judge necessary for the public health and safety. (Civil Code, Section 303.)

27. The Minister of the Interior may establish a hospital on each of the islands of Oahu, Maui, Hawaii, and Kauai, to be under the immediate supervision and control of the Board of Health, which may make rules and regulations for the government of such hospitals; which rules and regulations shall be published for general information. (Civil Code, Section 304.)

28. For the purpose of removing nuisances, and causes of sickness, the Board of Health may require the Marshal and

Sheriffs, to cause the prisoners under their charge to aid in such work. (Civil Code, Section 305.)

29. In case any moneys are expended by the Board of Health, for any sick person brought into this kingdom in any vessel from abroad, it shall be the duty of said Board, or its agent, to demand the same from the master of the vessel in which such sick person was brought; and the Collector of Customs shall not grant clearance to such vessel until the same is paid. The master of such vessel shall be liable for the amount of the moneys thus expended. (Civil Code, Section 306.)

30. For the purpose of carrying into effect the law relating to the public health, the Board of Health is empowered to draw from the public treasury, and disburse all sums of money that may be appropriated by the Legislature, for the preservation of the public health; and in case pestilence, or contagious disease, shall visit the nation, said Board is empowered to draw from the public treasury, and disburse all such sums as may, from time to time, be appropriated by the King and Privy Council, for the protection of the lives and health of the people. Said Board shall observe the strictest economy in the expenditure of such moneys, and its drafts on the Minister of Finance shall be accompanied by a written statement showing the objects for which the money is to be used. (Civil Code, Section 307.)

31. The Board of Health shall keep a regular record of its proceedings, and shall. annually, make a full and detailed report of its transactions including an account of its receipts and expenditures, to the Minister of the Interior, who shall lay the same before the Legislature. Said Board shall also, during the prevalence of any severe pestilence, or epidemic, publish a weekly report of the public health. (Civil Code, Section 308.)

VACCINATION.

32. The Minister of the Interior shall appoint, upon the recommendation of the Board of Health, a suitable person to be vaccinating officer in each of the gubernatorial divisions of the kingdom, who shall receive such salary, as may, from time to time, be appropriated by the Legislature, and shall be removable from office at the pleasure of said Minister. (Civil Code Section 309.)

33. Each vaccinating officer shall appoint, at least, three convenient places in each school district throughout his division, for the performance of vaccination; and, from time to time, give public notice of the time when he will attend at such places, to vaccinate all persons not already successfully vaccinated who may then and there appear; and also of the time when he will attend at such place, to inspect the progress of such vaccination in the persons so vaccinated. (Civil Code, Section 310.)

34. The father or mother of every child shall, within six months after the birth of such child, or, in the event of the death, illness, or absence of the father or mother, then the guardian, nurse, or person having charge of such child, shall, within six months after its birth, or at the earliest opportunity after, take such child to the vaccinating officer, for the purpose of being vaccinated. (Civil Code, Section 311.)

35. Upon the eighth day, following the day on which any child has been vaccinated, the father, mother, guardian, or other person having charge of said child, shall again take such child to the vaccinating officer, that he may ascertain by inspection the result of such operation. (Civil Code, Section 312.)

36. If the vaccination is found to be successful, the officer shall deliver to the father, mother, or other person having charge of the child, free of charge, a certificate that the child has been successfully vaccinated, and shall note the same in a book to be kept by such officer for that purpose. (Civil Code, Section 313.)

37. On the presentation of any child to be vaccinated, should the officer deem the child to be in an unfit state to be vaccinated, he may postpone the operation at his discretion, and give due notice to the parents, or person having charge of such child, to reproduce the same for vaccination at a future time. (Civil Code, Section 314.)

38. The vaccinating officers shall visit the several stations appointed by them, at least once in every six months, and oftener, if required so to do by the Minister of the Interior, or Board of Health. (Civil Code, Section 315.)

39. Every parent, guardian, or other person having the charge of any child, who shall refuse or neglect to comply with the provisions of the law respecting vaccination, shall be subject to a fine of five dollars; one half of which shall be paid to the informer. (Civil Code, Section 316.)

40. The several vaccinating officers shall keep a faithful record of their transactions, and make an annual report of the same to the Minister of the Interior. (Civil Code, Section 317.)

CHAPTER LX.

CORONERS' INQUESTS.

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1. The Marshal and Sheriffs, and in all other districts than Honolulu and Lahaina, the several District Justices, shall, ex-officio, act as coroners, without any extra compensation. (Civil Code, Section 318.)

2. As soon as any coroner shall have notice of the death of any person, within his jurisdiction, supposed to have come to such death by poisoning, violence, or in any suspicious manner, he shall forthwith issue his summons to six good and lawful men, of the district where such death may have occurred, or in which the dead body may have been found or is at the time lying, to appear before him at the time and place expressed in the warrant, then and there to inquire upon the view of the body of the deceased, when, how, and by what means he came to his death. All persons summoned to attend on a coroner's jury, shall serve without pay; and if any person summoned to serve on such jury, shall fail to appear, without reasonable excuse therefor, he may be fined by the coroner, not exceeding five dollars; and the coroner may issue process to any consta-

ble for the collection of any fines thus imposed. (Civil Code, Section 319.)

3. If the six jurors summoned shall not all appear, the coroner may summon other jurors from the bystanders, or others, to complete the number. (Civil Code, Section 320.)

4. When the jury is complete the coroner shall call over their names, and then in view of the body, he shall administer to them the following oath: (Civil Code, Section 321.)

You solemnly swear that you will diligently inquire, and true presentment make, when, how, and by what means, the person whose body lies here dead, came to his death; and you shall return a true inquest thereof according to your knowledge, and such evidence as shall be laid before you: So help you God.

5. The Coroner may issue subpœnas for witnesses, returnable forthwith, or at such time and place as he shall therein direct, and may enforce the same by fine or imprisonment, or both, in the discretion of said coroner. (Civil Code, Section 322.)

6. An oath to the following effect, shall be administered by the coroner to the witnesses: (Civil Code, Section 323.)

You solemnly swear, that the evidence which you shall give to this inquest, concerning the death of the person here lying dead, shall be the truth, the whole truth, and nothing but the truth: So help you God.

7. The testimony of all witnesses examined before any inquest, shall be reduced to writing by the coroner, or some other person by his direction, and subscribed by the witnesses. (Civil Code, Section 324.)

8. The jury upon the inspection of the dead body, and after hearing the testimony of the witnesses, and making all needful inquiries, shall draw up and deliver to the coroner, their inquisition under their hands. (Civil Code, Section 325.)

9. Every coroner's jury shall, if possible, find and certify when, how, and by what means, the deceased person came to his death, and his name if it was known, together with all the material circumstances attending his death; and if it shall appear that he was murdered, the jury shall state who were guilty either as principal or accessory, if known, or were in any manner the cause of his death. The form of the inquisition may be in substance as follows: (Civil Code, Section 326.)

An inquisition taken at ——, island of ——, on the —— day of ——, in the year ——, before ——, one of the Coroners of said island, upon the body of ——, (or, a person) there lying dead, by the oaths of the jurors whose names are

hereunto subscribed, who being sworn to enquire when, how, and by what means the said ——, (or person) came to his death, upon their oaths do say, (then insert when, how, and by what person, if known, means, weapons, or instruments he was killed.) In testimony whereof, the said Coroner, and the jurors of this inquest, have hereunto set their hands, the day and year aforesaid.

10. If the jury find that any murder, manslaughter, or assault had been committed on the deceased, the coroner shall bind over by recognizance ; or, if necessary, commit to jail such witnesses as he shall think proper, to appear and testify upon the trial of any person who may be indicted for such offense. The coroner shall return to the Court before which such trial is to be had, the inquisition, written evidence, and all recognizances and examinations by him taken. (Civil Code, Section 327.)

11. If any person charged by the inquest with having committed such offense, shall not be in custody, the coroner shall have the power to issue process for his apprehension, and such process shall be made returnable, before any Police or District Justice, or any other magistrate or court having jurisdiction in the case, who shall proceed therein, in the same manner as if he had issued such process himself. (Civil Code, Section 328.)

12. When any coroner shall take an inquest upon the dead body of a stranger, or, being called for that purpose, shall not think it necessary on view of such body, that any inquest should be taken, he shall cause the body to be decently buried. (Civil Code, Section 329.)

13. No fees shall be paid to jurors or witnesses attending upon any coroner's inquest, but all the reasonable expenses of the inquisition shall be paid to the coroner from the public treasury, the account of such expenses being first examined and allowed by the Minister of the Interior. (Civil Code, Section 330.)

CHAPTER LXI.

FOR THE PROTECTION OF PLACES OF SEPULTURE.

1. If any person, not having any legal right to do so, shall willfully dig up, disinter, remove or convey away any human body from any burial place, or shall knowingly aid in such disinterment, removal or conveying away, every such offender and every person accessory thereto, either before or after the fact, shall be punished by imprisonment at hard labor for not more than two years, or by a fine not exceeding one thousand dollars. (1860, p. 21.)

CHAPTER LXII.

TO PREVENT THE SPREAD OF LEPROSY.

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4. Establishment of a hospital.
5. Labor required from leprous patients. Rules and regulations.
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1. The Minister of the Interior, acting as President of the Board of Health, is hereby expressly authorized, with the approval of the said Board, to reserve and set apart any land or portion of land now owned by the Government, for a site or sites of an establishment or establishments to secure the isolation and seclusion of such leprous persons as in the opinion of the Board of Health or its agents may, by being at large, cause the spread of Leprosy. (1864, p. 62.)

2. The Minister of the Interior, as President of the Board of Health, and acting with the approval of the said Board, may acquire for the purpose stated in the preceding section, by purchase or exchange, any piece or pieces, parcel or parcels of land, which may seem better adapted to the use of Lepers, than any land owned by the Government.

3. The Board of Health or its agents, are authorized and empowered to cause to be isolated and confined, in some place or places for that purpose provided, all leprous patients who shall be deemed capable of spreading the disease of Leprosy; and it shall be the duty of every Police and District Justice, when properly applied to for that purpose by the Board of

Health, or its authorized agents, to cause to be arrested and delivered to the Board of Health or its agents, any person alleged to be a leper, within the jurisdiction of such Police or District Justice ; and it shall be the duty of the Marshal of the Hawaiian Islands and his Deputies, and of the Police Officers, to assist in securing the conveyance of any person so arrested, to such place as the Board of Health or its agents may direct, in order that such person may be subjected to medical inspection, and thereafter to assist in removing such person to a place of treatment, or isolation, if so required by the agents of the Board of Health.

4. The Board of Health is authorized to make such arrangements for the establishment of a Hospital, or the securing of a ward in some Hospital, where leprous patients in the incipient stages may be treated in order to attempt a cure ; and the said Board and its agents shall have full power to discharge all such patients as it shall deem cured, and to send to a place of isolation contemplated in Sections 1 and 2 of this Act, all such patients as shall be considered incurable or capable of spreading the disease of Leprosy.

5. The Board of Health or its agents may require from patients, such reasonable amount of labor as may be approved of by the attending Physicians ; and may further make and publish such rules and regulations as by the said Board may be considered adapted to ameliorate the condition of Lepers, which said rules and regulations shall be published and enforced as in the 284th and 285th Sections of the Civil Code provided.

6. The property of all persons committed to the care of the Board of Health, for the reasons above stated, shall be liable for the expenses attending their confinement, and the Attorney General shall institute suits for the recovery of the same when requested to do so by the President of the Board of Health.

7. The Board of Health, while keeping an accurate and detailed account of all sums of money expended by them out of any appropriations which may be made by the Legislature, shall keep the account of sums expended for the Leprosy, distinct from the general account. And the said Board shall re-

port to the Legislature at each of its regular sessions, the said expenditures in detail, together with such information regarding the disease of Leprosy, as well as the public health generally, as it may deem to be of interest to the public.

CHAPTER LXIII.

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1. There shall be a fire department for the city of Honolulu, which shall consist of a chief engineer, two assistant engineers, four fire wardens, and as many firemen as may be approved by the representatives of the department, chosen according to its by-laws. All members of the fire department shall, during the

term of their service as such, be exempt from all personal taxes. (Civil Code, Section 331.)

2. The chief engineer and the two assistant engineers, shall be elected annually, on the first Monday of June, by the certificate members of the fire department. (Civil Code, Section 332.)

3. The four fire wardens shall be elected annually by the representatives of the department. (Civil Code, Section 333.)

4. The elections provided for in the two last preceding sections, shall be conducted in such manner as the by-laws of the department shall prescribe. (Civil Code, Section 334.)

5. The chief engineer shall, in all cases of fire, have the sole and absolute control and command over all the members of the fire department; and it shall be his duty to cause the several fire engines to be located in the most advantageous situations, and duly worked for the effectual extinguishing of fires. He may grant the custody and use of the fire engines, fire buckets, and other fire apparatus belonging to government, to such firemen as he may deem proper, and assume the control of them at his pleasure ; and he shall, as often as once in three months, examine into the condition of the fire engines, engine houses, fire buckets, and other fire apparatus, and report the condition of the same to the Minister of the Interior, together with the names of all the certificate members of the department. When any of the said fire engines, or other apparatus, shall require to be repaired, the chief engineer shall cause the same to be well and sufficiently repaired. (Civil Code, Section 335.)

6. In case the chief engineer shall be absent from a fire, the first assistant shall assume his duties ; and in case the chief engineer and first assistant shall both be absent, their duties shall devolve upon the second assistant engineer. (Civil Code, section 336.)

7. The fire wardens shall divide the city of Honolulu into four districts, and report their boundaries to the chief engineer, and shall appoint one of their number to each district, for the purpose of making the visitations and examinations provided for in the next section, who shall keep a record of the names of the occupants of the houses, or other buildings, where they

shall observe any violations of the provisions of this law. (Civil Code, Section 337.)

8. It shall be the duty of the fire wardens twice in every year, and as much oftener as they may think proper, to examine the dwelling houses and other buildings in their respective districts, for the purpose of ascertaining any violations of this law, and also to examine the fire places, hearths, chimneys, stoves and stove pipes, in their respective districts, and upon finding any of them defective or dangerous, they, or either of them, shall direct the owner, or occupant, by written notice, to alter, remove, or amend the same; and in case of neglect or refusal so to do, the party offending shall forfeit and pay twenty-five dollars, for the benefit of the fire department, and for every day of the time allotted for such alteration, removal, or amendment, the party so offending shall forfeit and pay the further sum of ten dollars, and the fire warden may make such alteration, removal, or amendment, at the expense of said owner or occupant. (Civil Code, Section 338.)

9. It shall be the duty of each and every fire warden to prosecute all persons guilty of a violation of any of the provisions of this law, before the Police Court of Honolulu, and they shall pay over all fines collected, to the treasurer of the fire department, deducting twenty per cent. of such fines for their respective services. (Civil Code, Section 339.)

10. The firemen shall be divided into companies, to consist of such number as shall, from time to time be fixed by the by-laws of the several companies. Each of said companies may choose out of their own number a foreman, assistant foreman, a secretary and treasurer, in such manner, and at such times as they shall think proper. (Civil Code, Section 340.)

11. It shall be the duty of said firemen, whenever any fire shall break out in the city, to repair immediately to said fire with their respective engines, hose carriages, hooks, ladders, and other apparatus, and there to work and manage such fire engines, and other fire implements, with all their skill and power, as the chief engineer may direct, and they shall not remove therefrom without permission of the chief engineer. (Civil Code, Section 341.)

12. For the more effectual perfecting of the firemen in their

duties, they shall once in every month draw out their several engines, in order to wash and cleanse the same, and to exercise the firemen; and if any fireman shall neglect said duty, he shall forfeit and pay such penalty as the majority of his company shall direct. (Civil Code, Section 342.)

13. If any fireman shall neglect to attend any fire, or leave his engine, or other apparatus, while at any fire, without permission, or shall neglect to do his duty on such occasions, without reasonable excuse, he shall for every such default, pay such penalty as the majority of his company shall fix; and may, by a vote of the majority of his company, be dismissed as a fireman. (Civil Code, Section 343.)

14. The representatives of the department shall have authority, whenever a company has, for six months, so few members as to render it inefficient, to disband the same, and assign the members thereof, with their consent, to any other company, or companies, provided the same is done with the assent of the company or companies, to which they are assigned. (Civil Code, Section 344.)

15. It shall be the duty of such members of the city police as are not on duty, at the time of any fire, to repair immediately on the alarm of fire, with their badges of office, to the place where such fire may be, to preserve the peace, protect property, remove all idle or suspected persons, or others not actually employed in extinguishing the fire, and also, upon request, to arrest and detain in custody all persons refusing to obey the orders of the chief engineer, or either of his assistants. Every police officer who shall violate any of the provisions of this section shall forfeit and pay the sum of ten dollars for each offense. (Civil Code, Section 345.)

16. All policemen of Honolulu on duty at the time of an alarm of fire, are required to remain at the places where they have been stationed, and to give the alarm of fire, until the community are aroused, and should any such policeman leave his station without the order of his chief, he shall forfeit and pay ten dollars for each offense. (Civil Code, Section 346.)

17, No person shall, unless by permission of the chief engineer, kindle any fire, or furnish the materials for any fire, nor

in any way authorize any fire to be made in any street, road, lane, market place, or other highway, or on any pier or wharf in the city (except for the purpose of boiling tar, which fire shall not be more than ten feet from the end of the pier or wharf) under the penalty of five dollars for each offense. (Civil Code, Section 347.)

18. Every building occupied as a dwelling-house in Honolulu, or as a store-house, or regular place of business, shall be furnished with at least two fire buckets, which shall be kept in a conspicuous place, and upon which the name of the owner shall be painted; and all occupants of buildings not so furnished shall be liable to a fine not exceeding ten dollars. (Civil Code, Section 348.)

19. Any person giving a false alarm of fire in Honolulu, shall forfeit and pay for each offense, a fine not exceeding fifty dollars. (Civil Code, Section 349.)

20. All male residents of Honolulu, going to a fire, are required to obey the orders of the chief engineer, and assistant engineers, under a penalty of five dollars for each offense. (Civil Code, Section 350.)

21. Any person cutting, or in any way intentionally injuring any portion of the fire apparatus, shall be subject to a penalty not exceeding one hundred dollars. (Civil Code, Section 351.)

22. It shall be the duty of all persons owning or occupying premises adjacent to a fire, to allow free access to the same by the fire department, upon the order of the chief engineer, or either of the assistant engineers, for the purpose of obtaining water or using the fire apparatus for the extinguishing of any fire; and in case such access is refused, the chief engineer, or the person acting in his place, is hereby authorized forcibly to enter said premises for the purposes aforesaid, and the persons so refusing shall forfeit and pay not less than twenty dollars. (Civil Code, Section 352.)

23. The city of Honolulu, for the purposes of this law, shall comprise all the space included within a circle, whose center is the public market house of Honolulu, and whose radius is one mile. (Civil Code, Section 353.)

CHAPTER LXIV.

THE SAFE KEEPING OF GUNPOWDER.

CONTENTS.

SECTION 1. Regulations for storing, keeping and transportation of gunpowder.
2. Penalty for violation of same.
3. Gunpowder kept contrary to same.
4. Action for damages by explosion.
5. Officers of police may enter any building to search for gunpowder.
6. No regulations for safe-keeping of same to take effect until published.

1. The minister of the interior may make such regulations for the storing, keeping, and transportation of gunpowder, in any town of the kingdom, as he may think the public safety requires; and no person shall store, keep, or transport any gunpowder, in any other quantity or manner than is prescribed in such regulations. (Civil Code, Section 354.)

2. Whoever shall violate any of such regulations, shall be fined for each offense, not less than twenty, nor more than one hundred dollars. (Civil Code, Section 355.)

3. All gunpowder introduced into, or kept in any town contrary to said regulations, may by seized by any sheriff, or any other officer of police, and the same shall be forfeited for the benefit of the public treasury. (Civil Code, Section 356.)

4. Any person injured by the explosion of any gunpowder, in the possession of any person contrary to the regulations prescribed by the minister of the interior, may have an action for damages against the person having custody or possession of the same, at the time of the explosion, or against the owner of the same, if cognizant of such neglect. (Civil Code, Section 357.)

5. All sheriffs, and other officers of police, shall have authority to enter any building, or place, to search for gunpowder supposed to be concealed there contrary to law; and any po-

lice or district justice, may grant a search warrant for that purpose. (Civil Code, Section 358.)

6. No regulations for the safe keeping of gunpowder shall take effect until they have been published three weeks successively in some newspaper in the town, or by posting up attested copies of them in three places in such town. (Civil Code, Section 359.)

CHAPTER LXV.

PUBLIC MARKETS.

CONTENTS.

SECTION 1. Designation of suitable places for public markets.
2. Appointment of clerks of markets.
3. Bond of clerks of markets.
4. Clerks to collect fees and fines—to keep an account of same.
5. Stalls and stands of markets to be leased by auction or otherwise—rents.
6. Removal of dirt and filth—regulations for same.
7. Inspection of weights, measures, &c.—penalty for refusal to exhibit same.
8. Use of weights and measures not approved—penalty.
9. Public market days.
10. Time of opening markets.
11. Penalty for violation of rules and regulations.
12. Salaries of clerks.
13. Standard of weights and measures.
14. Copies of same to be furnished to governors.
15. Charge for trying weights and measures.
16. What are the present standards of weights and measures, or that may be adopted.
17. Measurement of different kinds of grain.
18. Penalty for selling goods, &c., by measurements not duly sealed—action by person defrauded.

1. The minister of the interior, under the direction of the King, is hereby charged with the designation of suitable places to be used as public markets, and with the construction, repair and regulation of all such markets. (Civil Code, Section 194.)

2. Said minister, with the approval of the King, may appoint a clerk of the markets at Honolulu, and also clerks of the markets at other places, whenever the public good may require the same. (Civil Code, Section 195.)

3. Every clerk of a market thus appointed shall, before entering upon the duties of his office, execute a bond in the penal sum of one thousand dollars, with sufficient surety or sure-

ties, to be approved by the minister of the interior, payable to said minister for the use of the public exchequer, and conditioned for the faithful performance of his official duties. (Civil Code, Section 196.)

4. Every clerk of a market shall faithfully collect the market fees and fines, as they may be prescribed, from time to time, by the minister of the interior, with the approval of the King, keeping an account of the same in a suitable book or books, and shall quarterly render a true and faithful account of all moneys received by him in virtue of his office, and pay the same over to said minister. (Civil Code, Section 197.)

5. It shall be the duty of every clerk of a market to designate and declare to what uses and purposes the stalls and stands of said market shall be appropriated; and from time to time to lease the same by auction, or otherwise, as the minister of the interior may direct. The rents of all markets shall be paid in advance, and shall be collected and accounted for by the respective clerks. (Civil Code, Section 198.)

6. It shall be the duty of every clerk of a market to cause all dirt and filth which may accumulate in said market, to be removed daily, and in all other respects to keep said market in a pure, clean and healthy condition. To enable him to do this, he shall have the power to prescribe such rules and regulations for the observance of those occupying stalls and stands in the market, as may be necessary to keep the same pure and clean, and as the minister of the interior may approve. (Civil Code, Section 199.)

7. It shall be the duty of every clerk of a market once in every month, and whenever requested so to do by any purchaser in said market, to inspect all the weights, measures and beams used in weighing and measuring in such market; and, at the expense of the owners, to make them conform to the standard weights and measures of the kingdom; and if any person shall refuse to exhibit his weights and measures, or to make them conform to those established by law, he shall be fined twenty-five dollars. (Civil Code, Section 200.)

8. Any person using any weights or measures in a public market, not approved by the clerk of such market, shall be fined ten dollars, and he shall besides be liable in tenfold dam-

ages to any person injured by his conduct. (Civil Code, Section 201.)

9. Every day in the week, except Sunday, shall be a public market day ; and it shall be the duty of every clerk of a market to attend such market on market days, and to enforce the laws and regulations applicable to the same. (Civil Code, Section 202.)

10. The public markets shall be opened upon every market day, from the hour of five o'clock in the morning, until seven o'clock in the evening—and no longer, except on Saturday, when they shall be kept open until ten o'clock in the evening. (Civil Code, Section 203.)

11. Every person who shall violate any of the rules and regulations prescribed for the government of any public market or markets, or who shall stand or occupy for the sale or vending of any poi, fish, crawfish, oysters or shell fish, or any kind of fruit or vegetables, in any street in the city of Honolulu, shall be fined one dollar for such offense, and it shall be the duty of the clerk of the market to prosecute all such offenders : Provided, however, that the fines mentioned in this section shall not be imposed until such time as suitable markets and conveniences are set apart for the public use by the minister of the interior. (1860, p. 4.)

12 The salaries of all clerks of markets shall be fixed by the minister of the interior, with the approval of the King. (Civil Code, Section 205.)

WEIGHTS AND MEASURES.

13. It shall be the duty of the minister of the interior to procure a standard set of weights and measures ; and it shall be his duty to try by such standards, all such weights and measures as shall be presented to him to be tried ; and to seal such as shall be found true with the capital letters H. I. (Civil Code, Section 378.)

14. Said minister shall furnish to each of the respective governors, copies of the original standards, for the use of their respective divisions ; and it shall be the duty of the said governors to try all such weights and measures as may be presented to them to be tried ; and to seal such as shall be found true,

with the initial letters of their respective divisions. (Civil Code, Section 379.)

15. The charge for trying any weights and measures shall be as follows: For sealing and marking every beam, fifty cents; for sealing and marking every measure of extension, twenty-five cents; for sealing and marking every weight, ten cents; for sealing and marking every liquid or dry measure, ten cents; and a reasonable compensation for making such weights and measures conform to the standards. (Civil Code, Section 380.)

16. The standards of weights and measures shall be those adopted, and now used, or that may be adopted and used by the United States of America. (1866, p. 13. Civil Code, Section 381.)

17. Whenever any wheat, rye, Indian corn, barley or oats, shall be sold by the bushel, and no special agreement as to the measurement shall be made by the parties, the bushel shall consist of sixty pounds of wheat, of fifty-six pounds of rye, of fifty-six pounds of Indian corn, of forty-eight pounds of barley, and thirty-two pounds of oats. (Civil Code, Section 382.)

18. If any person shall sell any goods, wares, or merchandise, fruit, vegetables, or other commodity whatsoever by any beams, weights, or measures, that have not been duly sealed, he shall be fined for each offense a sum not exceeding fifty dollars; and any person who shall be injured or defrauded by the use of any such beams, weights, or measures, may maintain an action against the offender; and if judgment be rendered for the plaintiff, he shall recover double damages, and the costs of suit. (Civil Code Section 383.)

CHAPTER LXVI.

PORT REGULATIONS.

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SECTION 1. Vessels to be anchored and moored under directions of harbor master—quitting anchorage without permission.
2. Making fast to other vessels, warps, or to wharves—penalty for casting off—responsibility of master for damages and fine.
3. Duty of vessels to slack down their stream cables—penalty.
4. Duty of vessels entering port—penalty for non-observance.
5. Duty of vessels anchoring outside reef at Honolulu—penalty.
6. No combustible material to be heated on board—penalty.
7. Penalty for throwing rubbish into harbor of Honolulu or Hilo.
8. Throwing dead animals upon the shores or reefs—penalty.
9. Shipping or discharging ballast or coals—penalty.
10. Penalty for refusal to surrender offenders escaping on board vessels.
11. Penalty for secreting any offender amenable to the laws of the kingdom.
12. Searching vessels for deserters, criminals, etc.—penalty for refusal of such search by the commanding officer.
13. Above not to be construed as applying to ships of war.
14. Penalty of consuls for delivery of papers to vessels without producing clearance.
15. Penalty of mariners remaining on shore at Honolulu after proper time.
16. Penalty of mariners remaining on shore at Lahaina after proper time.

1. All vessels that may enter any port shall be anchored in the place designated by the harbor master, and moved from one anchorage to another, as he may direct; and no vessel, excepting coasting vessels under fifty tons burthen, and vessels about to leave the harbor, shall quit her anchorage or moorings until the commanding officer shall have received the written permission of the harbor master, under penalty of a fine not exceeding one hundred dollars. (Civil Code, Section 605.)

2. The harbor master, or any pilot, while removing a vessel from one anchorage or mooring to another, may make fast to any other vessel, or to any warp or wharf; and any person resisting the same, cutting away, or casting off the warp or fastening, shall

be subject to a fine not exceeding one hundred dollars ; and if such person belong to any vessel, the master of such vessel shall be responsible for any damages resulting from such resistance, cutting away, or casting off, as well as the fine imposed upon the offender. (Civil Code, Section 606.)

3. In order to facilitate the removing and placing of vessels in their proper berths, all vessels in the harbor shall, when requested by the harbor master or any pilot, slack down their stream cables and other fastenings, and also their bower chains, under penalty of a fine not exceeding one hundred dollars. (Civil Code, Section 607.)

4. All vessels entering port shall, if so requested by the harbor master or any pilot, rig in their jib, flying jib, and spanker booms, and spritsail yards, and top their lower and topsail yards, within twenty-four hours after anchoring in such port ; and in all cases before attempting to come alongside of, or make fast to either of the docks or wharves, and keep them so rigged in and topped until within twenty-four hours before leaving the harbor, and until after removing from any wharf or dock, under the penalty of a fine not exceeding one hundred dollars. (Civil Code, Section 608.)

5. All vessels anchoring outside the reef at Honolulu, shall, when so requested by the harbor master or any pilot, change their anchorage, and anchor in such place as he may direct, under penalty of a fine not exceeding one hundred dollars. (Civil Code, Section 609.)

6. No combustible materials, such as pitch, tar, resin, or oil, shall be heated on board of any vessel within the harbor of Honolulu, but all such combustible articles shall be heated either on shore, or in a boat, or on a raft, at a reasonable distance from the vessel, of which distance the harbor master shall be the judge. Every person violating the provisions of this section, shall be liable to a fine not exceeding one hundred dollars. (Civil Code, Section 610.)

7. No stones or other rubbish, shall be thrown from any vessel into the harbor of Honolulu, or Hilo, under penalty of a fine not exceeding one hundred dollars, and the master of any vessel from which stones or rubbish are thrown, shall be subject to a like fine. (Civil Code, Section 611.)

8. Any person who shall throw, or cause to be thrown, or leave or cause to be left, for the space of six hours, upon the shores or reefs of any harbor in this kingdom, any dead animal, shall be subject to a fine not exceeding one hundred dollars, and shall cause the same to be removed without delay. (Civil Code, Section 612.)

9. Every vessel taking on board, or discharging any ballast, or coals, within the harbor of Honolulu, shall have a tarpaulin properly stretched and spread so as to prevent any from falling into the water, under penalty of a fine not exceeding one hundred dollars. (Civil Code, Section 613.)

10. If any person commit any offense on shore, and the offender escape on board any vessel, it shall be the duty of the commanding officer of said vessel to surrender such offender to any officer of the police who may demand his surrender, either with or without a warrant, on production of his commission or appointment; and if such commanding officer shall refuse to surrender such offender, he shall be subject to a fine of not less than fifty, nor more than one thousand dollars; and upon written notice to the collector of customs by said officer of police, the vessel shall not receive a clearance at the custom house, until the fine is paid, and the offender surrendered. (Civil Code, Section 614.)

11. If the commanding officer of any vessel shall secrete, or allow to be secreted, on board such vessel, any prisoner amenable to, or convicted under the laws of this kingdom, or convey him out of the jurisdiction of the Hawaiian Islands, he shall be subject to a fine of not less than fifty, nor more than one thousand dollars; and the vessel in which such prisoner shall be conveyed shall be liable to a like fine, for the payment of which she may be seized, condemned and sold. (Civil Code, Section 615.)

12. It shall be lawful for the marshal, any sheriff, or other police officer, to search any vessel for deserters, criminals, or other offenders or debtors, without a warrant, on producing to the commanding officer of the vessel, his commission or appointment as marshal, sheriff, or police officer; and the commanding officer of a vessel who shall refuse any marshal, sheriff, or other police officer, access to the vessel or any part thereof, shall be

subject to a fine not less than ten dollars, nor more than one thousand dollars, in the discretion of the court; and such vessel shall not be entitled to a clearance, until the fine is paid, and the search allowed: provided, however, that the provisions of this section shall not be construed to interfere with the jurisdiction of foreign consuls, under existing treaty stipulations. (Civil Code, Section 616.)

13. Nothing contained within the last three preceding sections, shall be so construed as to apply to ships of war, or other vessels commanded by officers bearing the commissions of foreign states, and not subject to search by the law and usage of nations. (Civil Code, Section 617.)

14. No foreign consul, vice-consul, or consular agent, shall deliver to the master of any foreign vessel, the register, and other papers of such vessel deposited with him, until such master shall produce to him a clearance in due form, from the collector of the port; and any consul, vice-consul, or consular agent, offending against this provision, shall, upon conviction thereof before the supreme court, be fined in the discretion of the court, not less than one hundred dollars, nor exceeding one thousand dollars. (Civil Code, Section 618.)

15. The governor of Oahu shall cause a bell to be rung at the port of Honolulu, at nine and a half o'clock of each evening, as a signal to all mariners at that time on shore, without the written permission of the chief of police, to return on board their vessels; and the bell shall again be rung at ten o'clock, and all mariners found on shore after that time, without such written permission, shall be liable to arrest, and a fine of two dollars. (Civil Code, Section 619.)

16. The governor of Maui shall cause a bell to be rung at the port of Lahaina at seven o'clock of each evening, as a signal to all mariners, at that time on shore without the written permission of the chief of police, to return on board their vessels; and the bell shall again be rung at eight o'clock, and all mariners found on shore after that time without such written permission, shall be liable to arrest and a fine of two dollars. (1860, p. 8.)

CHAPTER LXVII.

WHALE SHIPS.

CONTENTS.

SECTIONS 1-2. Duty of masters of whaleships entering port—penalty for non-observance of.
3. Permits to trade for refreshments and supplies.
4. May be used at one or more ports.
5. Not to include the trade in spirituous liquors.
6. When duties shall be exacted in like manner as from merchant vessels.
7. Penalty for failure to produce permit.

1. Every master of a whaling vessel shall enter his ship at the custom house, within forty-eight hours after his arrival at any port of entry, and previous to discharging or shipping any seamen, or taking off any supplies or stores, under a penalty of not less than ten, or more than one hundred dollars, to be imposed by the collector of customs. (Civil Code, Section 567.)

2. Every master of a whaling vessel shall, within forty-eight hours after his arrival, deliver under oath, at the custom house, a list of all wines and spirits on board as stores, and a manifest of all cargo and freight, except the produce of his fishing, and the outfits, provisions and furniture of his vessel, under the penalty of forfeiting all such stores, cargo or freight, as are not on the list of stores or the manifest, and a fine of one hundred dollars. (Civil Code, Section 568.)

3. Every master of a whaling vessel who shall have duly entered his vessel at the custom house, delivered all the necessary papers, and paid the legal charges due upon such entry, shall be entitled to a permit from the collector to trade, or barter goods, excepting spirituous liquors, for refreshments and supplies, to the amount of twelve hundred dollars, original invoice value, two hundred dollars of which shall be free of duties. Said permit shall be as follows: (Civil Code, Sec. 569.)

WHALER'S PERMIT TO LAND MERCHANDISE.

CUSTOM HOUSE, ———, H. I.

MARKS.	NUMBERS.	PACKAGES AND CONTENTS. Quantities to be specified.	VALUE AS PER INVOICE.

Permission is hereby given to ———, master of the ———, whaler, to land from said vessel, goods, excepting spirituous liquors, as above named, the same being entered according to their marks, numbers and actual cost, delivered on board as per original invoice.

N. B.—Oil and bone valued as follows: Sperm oil, ———; whale oil, ———; bone, ———. All articles to be landed on this permit must be entered upon it with ink, and the value carried out before leaving the vessel.

——— ———, Collector.

To which shall be added the following deposition:

PORT OF ———, H. I.

I, ———, master of the ———, do depose on oath that I have not exceeded the value of ——— dollars, in trade or barter with the inhabitants of this port, or its jurisdiction, since my entry on the ——— day of ———, 18—, and I have not landed, or allowed to be landed from my said vessel, any goods other than what are included in this permit.

——— ———.

Subscribed and sworn to before me this ——— day of ———, 18—.

——— ———, Collector.

4. The privilege to trade or barter granted to whaling vessels in the last preceding section, may be used at one or more ports of the kingdom, but shall not be construed so as to permit any such vessel to trade or barter goods to a greater amount, in all, than that prescribed in the last preceding section, during one visit to the kingdom. (Civil Code, Section 570.)

5. The permits to trade or barter, given to whaling vessels, do not include the trade, sale, landing, or disposal of spirituous liquors; and all such traffic on the part of such vessels, shall subject them to all the charges of merchant vessels, and to all other legal liabilities. (Civil Code, Section 571.)

6. The same duties shall be exacted of whaling vessels, as are exacted of merchant vessels, for any goods landed or disposed of by them, exceeding the value of two hundred dollars; and in case such excess amounts to more than one thousand dollars, they shall be deemed in law to have become merchantmen, and be subjected to all the charges of merchant vessels. (Civil Code, Section 572.)

7. Every master of a whaling vessel who shall fail to produce his permit, when called for by any officer of customs, shall be liable to a fine of not less than ten, nor more than fifty dollars, to be imposed by the collector. (Civil Code, Section 573.)

CHAPTER LXVIII.

THE ARRIVAL, ENTRY AND DEPARTURE OF VESSELS.

CONTENTS.

SECTIONS 1–2. Duties of commanding officers of merchant vessels on arrival from a foreign port, or from a domestic port with foreign merchandise on board—inward manifest—list of stores to be furnished to collector—penalties.
3. Goods liable to seizure and confiscation—penalty.
4. Liability for goods not produced as per inward manifest—penalty.
5. Errors in manifests or entries may be corrected.
6. Inward entry.
7. Permit to discharge.
8. Officer to be present on board vessel during discharge—his duties.
9. Original invoices, bills of lading verified by oath—forfeiture of goods not invoiced at actual cost.
10. Collectors *ex-officio* inspectors, appraisers, etc.
11. Certain packages may be designated for inspection or examination by collectors—penalty for refusing to furnish same.
12. Principal in bond for duties must be owner of the goods, etc.
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14. Improper times of landing goods—penalty.
15. Transhipment of goods—transit entry.
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17. Entry for statistical purposes.
18. False, forged or fraudulent invoices—penalties.
19. Drawback.
20. Goods entered for exportation, with intent for drawback, landed without re-entry and payment of charges—penalties.
21. Penalty of master of vessel for suffering the baggage of passengers to be landed without permit.
22. Penalty of passenger for landing baggage without permit.
23. Certificate of clearance.
24. Duty of master to report if vessel does not sail within forty-eight hours after clearance—penalty.
25. Harbor master's receipt or certificate necessary for a clearance.

SECTION 26. Outward entry.
27. Permit for lading goods for exportation.
28. Duties of commanding officer before being entitled to a clearance.
29. Vessels having cargo for a foreign country to touch only at a port of entry, except, etc.—penalty.
30. Vessels sailing without a clearance—penalty.
31. Appointment of harbor masters—bond for faithful discharge of duties—to account and pay over to collector all monies received.
32–33. Duties of harbor master, Honolulu and Hilo—to be wharfingers.
34. Harbor master of Honolulu not to act as pilot.
35. Duty to grant permits to foreign seamen.
36. Fees—harbor master of Honolulu and Hilo.
37. Compensation of harbor masters of other ports.
38. Compensation as wharfingers.
39. To make a quarterly report.
40. Appointment of pilots.
41. Bond given by pilots.
42. Suit upon breach of bond.
43. Duty of pilots upon arrival of any vessel.
44. Duty of pilot upon boarding the vessel—penalty of pilot for conducting vessel into port contrary to law—liability of vessel entering port, where master has declined to sign health certificate.
45. Neither pilot, ship's company or passengers to communicate with shore, after discovery of contagious disease, without permission —penalty.
46. No vessel to be taken out, that is under attachment or arrest, nor before clearance obtained—penalty.
47. Compensation of pilots.
48. Penalty of vessels for not taking pilots.
49. Pilots' fees and health fees part of the port charges.
50. Appointment and duties of boarding officers at Lahaina, Kealakeakua, Kawaihae and Koloa.
51. Bond to be given by boarding officers.
52. Pay of boarding officers.

1. The commanding officer of every merchant vessel, arriving from a foreign port, or from a domestic port, with foreign merchandise on board, at any port of entry, shall, within forty-eight hours after arrival, make known to the collector the business upon which such vessel has come to this port, furnish him with a list of passengers, and deliver him a true and perfect manifest of the cargo with which she is laden, containing an account of the packages, with their specific contents, marks and numbers, and the names of the shippers and importers or consignees, in the following form, under penalty of not exceeding one thousand dollars : (Civil Code, Section 545.)

INWARD MANIFEST.

Report and manifest of cargo laden at the port of ———, on board of the ———, whereof, ——— is master, bound for ———.

MARKS.	NUMBERS	PACKAGES (specifying contents), OR ARTICLES IN BULK.	BY WHOM SHIPPED.	TO WHOM CONSIGNED.

Port of ———, Hawaiian Islands.

I, ———, master of the ———, do solemnly swear that the above manifest of cargo laden on board of the said ———, now delivered by me to the collector of the port of ———, contains, according to the best of my knowledge and belief, a full, just and true account of all goods now actually laden on board of said vessel: So help me God.

Subscribed and sworn to, this ——— day of ———, 18—.

Before me,

———, Collector.

2. Every master of a merchant vessel, at the time of delivering the inward manifest of his cargo, or if he has no cargo, within forty-eight hours after his arrival, shall deliver to the collector under oath, a list of all stores on board of his vessel, under penalty of forfeiting all stores not mentioned in such list, and a fine of one hundred dollars. (Civil Code, Section 546.)

3. All goods imported in any vessel, and which are not included in her inward manifest, shall be liable to seizure and confiscation; and the vessel and master shall be liable to a fine not exceeding one thousand dollars. (Civil Code, Section 547.)

4. When all the goods included in the inward manifest, are not produced or accounted for to the collector, the vessel and master shall be liable for the appraised value of such deficiency, and the duties thereon, together with a fine not exceeding one thousand dollars. (Civil Code, Section 548.)

5. Any collector may permit errors in manifests or entries to be corrected, in cases where it shall appear to his satisfaction, that there has been neither wrong intention nor gross negligence: provided, the application to make such correction, be made within forty-eight hours after the date of the manifest, or entry, or previous to completing the unlading of the vessel. (Civil Code, Section 549.)

6. The owner or consignee of goods, before obtaining a permit to discharge or land the same, shall furnish, under his oath, to the collector, a full statement of what is designed to be

landed and sold, or consumed, with the invoice price, and the costs and charges, as follows: (Civil Code, Section 550.)

INWARD ENTRY.

Entry of merchandise imported by ———, in the ———, of which ——— is master, from ———, at the custom house in ———, island of ———, Hawaiian Islands, this ——— day of ———, 18—.

MARKS.	NUMBERS.	PACKAGES AND CONTENTS. Quantities to be specified.	VALUE AS PER INVOICE.

Port of ———, Hawaiian Islands.

I, ———, do solemnly swear that the entry now subscribed with my name, and delivered by me to the collector of ———, contains a true account of all goods, wares and merchandise imported for sale, for me, or on my account, or on account of any person, or of any house of trade, or partnership, in which I am concerned, at this port or its dependencies (saving such goods and merchandise as are described in the other entry or entries hereunto annexed) in the ———, whereof ——— is master, from ———; that the said entry contains a just and true account of the cost thereof, including all charges, as per original invoice.

Subscribed and sworn to this ——— day of ———, 18—.

Before me,

——— ———, Collector of Customs.

7. Upon such entry being made, and the duties paid to the collector, or secured to be paid by bond, as hereinbefore prescribed, the collector shall grant to the consignee, or owner of said cargo, or of any part thereof intended to be landed, a permit to discharge in the following form: (Civil Code, Sec. 551.)

No. —— CUSTOM HOUSE, H. I.

PERMIT TO DISCHARGE.

MARKS.	NUMBERS.	PACKAGES.	

Permission is hereby given to land the above merchandise, from on board the ———, whereof ——— is master, to order of ———.

Dated ——— day of ———, 18—.

——— ———, Collector of Customs.

8. The collector shall provide an officer, whose compensation shall be such as may be fixed by the minister of finance, on the recomendation of the collector general of customs, to be present on board the vessel during her discharge, to superintend the landing of the goods, and see that no other or greater amount of goods are landed than is set forth on the permit. (Civil Code, Section 552.)

9. Whenever any inward entry shall be made at the custom

house, the person making such entry shall exhibit to the collector the original invoices, and bills of lading, and verify the same by oath. If goods of which entry shall be made, be not invoiced according to their actual cost at the place of export, with design to evade the whole or any part of the duties thereon, such goods, or the value thereof, to be recovered from the person making the entry, shall be forfeited. (Civil Code, Section 553.)

10. The collectors of the several ports shall be *ex-officio* inspectors, appraisers and examiners, at their respective ports, in all cases requiring the inspection, appraisement or examination of goods, wares and merchandise, or other property, entering or coming in any way into such port, without invoice, or when in his opinion undervalued upon the entry, or in any other case when in his judgment the same may be necessary. (Civil Code, Section 554.)

11. Every collector shall have the power to order one or more packages, out of every invoice of goods imported into this kingdom, to be designated by him, to be sent to the custom house for inspection, or examination; and any master, owner, importer, or consignee, who shall refuse to obey any such order of any collector, shall be liable to a fine not exceeding one thousand dollars. (Civil Code, Section 555.)

12. No person shall enter any goods, and secure the duties on them as principal in the bond, unless he is the owner or consignee at the time the vessel enters the port, or unless he is the authorized agent of such owner or consignee. (Civil Code, Section 556.)

13. Whenever any vessel shall arrive at any port of entry in this kingdom, having on board any wines, spirits, or any gunpowder, arms, or other munitions of war, or shall be taking on board any such goods for exportation, the collector of such port may immediately place on board of such vessel, one or more officers, whose duty it shall be to see that the revenue laws, and regulations of the port, are duly observed; said officer or officers shall remain on board such vessel until the goods are landed, or until the departure of said vessel. Such officers shall be compensated as provided in section 8. (Civil Code, Section 557.)

14. No goods, or articles of any description, shall be landed

at any of the ports of this kingdom, on any Sunday, or national holiday; nor on other days except between sunrise and sunset, under penalty of seizure and confiscation. (Civil Code, Section 558.)

15. In case of the transhipment of goods not landed in the kingdom, the consignee or owner shall, before being entitled to a permit to tranship the same, furnish to the collector of customs, a full statement of the goods intended to be transhipped, with their invoice price, as follows: (Civil Code, Section 559.)

TRANSIT ENTRY.

Entry of merchandise intended to be transhipped from ———, whereof ——— is master, on board of ———, whereof ——— is master.

MARKS.	NUMBERS.	PACKAGES AND CONTENTS. Quantities to be specified.	VALUE AS PER INVOICE.

Port of ———, Hawaiian Islands.

I, ———, do solemnly swear that the above entry contains a true account of all goods or articles, with the invoice, or estimate value thereof, intended to be transhipped by me, on board of ———, whereof ——— is master, and that they are truly intended to be exported by me in the said vessel to the port of ———, and are not intended to be landed in these islands.

Subscribed and sworn to this ——— day of ———, 18—.

Before me,

——— ———, Collector of Customs.

16. The collector, after such transit entry has been duly made, may grant a permit to tranship, in the following form: (Civil Code, Section 560.)

PERMIT TO TRANSHIP.

MARKS.	NUMBERS.	PACKAGES.	

Permission is hereby given for the above merchandise to be transhipped, from on board the ———, whereof ——— is master, to the order of ———.

——— ———, Collector.

———, ———, 18—.

17. An entry for statistical purposes, shall be made of all goods or other property imported into this kingdom, which by law are admissible duty free, by the consignee or importer thereof; and the collector of customs shall provide suitable blanks for that purpose. (Civil Code, Section 561.)

18. That section 562 of the civil code be and the same is

hereby repealed: Provided, however, that nothing in this act contained, shall be construed to exempt any person transhipping any goods, wares or merchandise without permit from the collector of customs, or who shall make out or pass, or attempt to pass, through any custom house, any false, forged or fraudulent invoice, or any of his aiders and abettors, from the penalties prescribed in Section 655 of the civil code. (1860, p. 7.)

19. All goods, wares and merchandise of every kind and description whatsoever, imported into this kingdom, shall upon exportation be entitled to a drawback equal to all duties payable upon such goods: Provided that no goods or liquors shall be entitled to drawback unless the same are exported in the original packages, and shall have been stored and remained in the public stores under charge of the collector of customs. (1860, p. 7.)

20. If any goods entered for exportation, with intent to drawback the duties thereon, shall be landed without re-entry and payment of all charges, at any port or place within this kingdom, such goods shall be suject to seizure and forfeiture, together with the vessel from which they shall be landed; and any person concerned therein shall, on conviction thereof, be imprisoned at hard labor not exceeding six months, or fined not exceeding one thousand dollars. (Civil Code, Section 564.)

PASSENGERS' BAGGAGE.

21. If the master of any vessel, arriving at any port of entry of this kingdom, from a foreign port, shall suffer the baggage of any passenger on board of his vessel to be removed on shore from such vessel, unless a permit therefor has been obtained from the collector of the port, or his agent, such master shall be liable to a fine not exceeding fifty dollars, in the discretion of the collector of customs. (Civil Code, Sec. 565.)

22. If any passenger arriving at a port of entry of this kingdom, on board of a vessel coming from a foreign port, shall remove his baggage on shore from such vessel, without first obtaining a permit therefor from the collector of the port, or his agent, such passenger shall be liable to a fine not exceeding fifty dollars, in the discretion of the court. (Civil Code, Sec. 566.)

23. Any vessel, the owner, consignee or commander of which shall have fully complied with the laws and regulations affect-

ing foreign trade, and with all the laws regulating the shipment and discharge of Hawaiian seamen, shall be entitled to depart upon receiving from the collector of the port a clearance in the following form :

HAWAIIAN ISLANDS.

CERTIFICATE OF CLEARANCE.

Port of ———, Hawaiian Islands. }
——— day of ———, 18—. }

This is to certify that the ———, of which ——— is master, bound for ———, is at liberty to proceed on her voyage.

———, Collector.

It shall also be incumbent on said collector to furnish the commanding officer, a bill of the charges, more particularly hereinafter prescribed. (Civil Code, Section 574.)

24. In case any vessel does not sail within forty-eight hours after receiving a clearance, it shall be the duty of the master to report the same to the collector of the port, under a penalty of not exceeding twenty-five dollars to be imposed by said collector. (Civil Code, Section 575.)

25. No vessel shall be entitled to a clearance, unless all proper charges at the harbor master's office shall have been settled; and the collector may require the master or agent of the vessel to produce the harbor master's receipt or certificate, to prove that he has settled all such charges. (Civil Code, Sec. 576.)

26. Any person wishing to export any foreign goods, shall enter the same at the custom house of the port where they may be stored, in the following form : (Civil Code, Section 577.)

OUTWARD ENTRY.

Entry of merchandise intended to be exported by ———, on board the ———, whereof ——— is master, for ———, which were imported on the ———, by ———, in the ———, ———, master, from ———, for the benefit of drawback.

MARKS.	NUMBERS.	PACKAGES AND CONTENTS. Quantities to be specified.	VALUE AS PER INVOICE.

Port of ———, H. I.

I, ———, do solemnly swear that the articles specified in the above entry were imported in the ———, of which ——— was master, from ———; that they were duly entered at this port; that they have been stored under the direction of the collector of customs, since the ——— day of ———, 18—; and that they are not intended to be re-landed in this kingdom.

——— ———

Subscribed and sworn to this ——— day of ———, 18—.

Before me,

———, Collector of Customs.

27. Due entry having been made of the goods intended for exportation, the collector shall grant a permit for lading the same, on board the vessel named in such entry, such lading to be made under the superintendence of the collector, or such other person as he may appoint for that purpose. (Civil Code, Section 578.)

28. To entitle any vessel to a clearance, it shall be incumbent on her commanding officer, first to furnish the collector of the port with a manifest of the cargo laden on board of such vessel, which manifest shall be given under oath, containing a full statement of all the goods on board, expressing contents, quantities and value, and distinguishing between domestic, foreign and transhipped goods, and shall also contain a list of her stores taken from bond, and passengers. (Civil Code, Section 579.)

29. No vessel having cargo on board intended for a foreign country, shall touch at any place in this kingdom, other than a port of entry, except as provided in section 529 of the civil code; and any vessel violating the provisions of this section, shall be subject to a penalty not exceeding five hundred dollars, in the discretion of the court. (Civil Code, Section 580.)

30. If any vessel shall sail from any port in this kingdom without first obtaining a clearance, the commanding officer thereof shall be subject to a fine not exceeding one thousand dollars, in the discretion of the court; for the payment of which fine, the vessel shall be liable to seizure, condemnation and sale. (Civil Code, Section 581.)

HARBOR MASTERS—THEIR GENERAL DUTIES AND COMPENSATION.

31. The minister of finance, upon the nomination of the collector general of customs, shall appoint a harbor master for such of the ports of entry for merchant vessels, as the said minister and collector general may deem necessary, who shall hold office during the pleasure of the said minister, and who, before entering upon the duties of his office, shall give a bond to the collector general of customs, in the penal sum of at least one thousand dollars, with sureties to be approved by the said collector general, conditioned that he will faithfully and honestly discharge the duties of harbor master, and account for and pay over to the collector general, all moneys received by him, as required by law. (Civil Code, Section 582.)

32. It shall be the duty of the harbor master of Honolulu, and Hilo, to board all vessels arriving from foreign ports, as soon as possible after they shall have entered the harbor; to direct them where and how to moor or make fast; to change their anchorage or moorings from time to time as circumstances may require; to see that the commanding officer has the printed port regulations, and to receive a list of passengers, to be delivered at the collector's office. He shall also be wharfinger at the port for which he is appointed. (Civil Code, Section 583.)

33. The harbor master of Honolulu, and of Hilo, shall also have authority over the anchoring, mooring and making fast, of all hulks, coasters, boats, and other craft in the harbor; and he is charged in general with the enforcement of all harbor regulations. (Civil Code, Section 584.)

34. The harbor master of Honolulu shall not act as a pilot of the port. (Civil Code, Section 585.)

35. The harbor master at the respective ports, is charged with the granting of permits for the discharge and residence on shore of foreign seamen, as prescribed by law; and it shall be his duty to notify the chief of police of the port, on the expiration of every such permit. (Civil Code, Section 586.)

36. The harbor master of Honolulu, and also of Hilo, shall be entitled to collect and receive from every vessel, except vessels engaged in the coasting trade, boarded by him, or to which he renders assistance or service, the sum of three dollars, in addition to his disbursements for the use of boats and warps, and for labor in mooring or making fast such vessels; and if necessarily detained on board more than two hours at any one time, he shall be paid at the rate of one dollar per hour for such extra detention; and for each time that he may be called upon to board, or that it may be necessary for him to board any such vessel, after having once moored her properly, he shall be entitled to receive the same pay as in the first instance. (Civil Code, Section 587.)

37. The compensation of the harbor masters of other ports, shall be such reasonable sum as may be determined by the minister of finance and the collector general of customs: Provided, that it shall be at their option to refuse any compensa-

tion, in cases where they shall deem it unnecessary. (Civil Code, Section 588.)

38. The harbor masters shall receive for their services as wharfingers, such a reasonable percentage of the receipts from wharfage as may be determined by the minister of the interior, not to exeed ten per cent. (Civil Code, Section 589.)

39. It shall be the duty of the several harbor masters to make a quarterly report of the transactions of their offices, together with the amount of compensation received by them to the minister of finance. (Civil Code, Section 590.)

PILOTS AND BOARDING OFFICERS.

40. The minister of finance, upon the nomination of the collector general of customs, shall appoint one or more pilots, for each of the ports of Honolulu, Hilo, and Hanalei, to hold office during the pleasure of said minister. Said pilots, in case of sickness, or temporary absence, may, with the approval of the collector of the port, appoint deputies to act in their behalf, for whose conduct they shall be responsible. (Civil Code, Section 591.)

41. Each of the pilots for Honolulu shall give a bond to the collector general of customs, with sureties to be approved by said collector general, in the penal sum of five thousand dollars; and the pilots for other ports shall give a like bond, in the penal sum of one thousand dollars; which bond shall be conditioned that the pilot shall faithfully perform all the duties imposed on him by law; that he will not countenance any evasion or infraction of the revenue laws; and that he will continually hold himself in readiness to conduct vessels safely into, and out of, the port for which he is appointed. (Civil Code, Section 592.)

42. In case of a breach of the conditions of any such bond, the collector general of customs, or any person injured thereby, may institute a suit upon such bond before any judge of a court of record, and thereupon recover such damages as shall be assessed, with costs of suit; for which execution may issue in favor of such person; and in case the party prosecuting shall fail to recover in the suit, judgment may be rendered, and exe-

cution may issue for costs in favor of the defendant against the party who shall have instituted the suit. Every suit on any such bond shall be commenced within one year after the right of action shall have accrued, and not afterwards. (Civil Code, Section 593.)

43. Upon the arrival of any vessel, making the usual marine signal for a pilot, it shall be the duty of the pilot or pilots at the port, to immediately put off to such vessel, taking with him a white and a yellow flag, to enquire into the sanitary condition of the ship, and the health of those on board ; and upon being assured to his satisfaction that there is no danger to be apprehended from any contagious disease, he shall board such vessel, but not otherwise. (Civil Code, Section 594.)

44. Upon boarding the vessel, the pilot shall present the commanding officer with a health certificate to be signed by him, and in case the same shall be signed, the white flag shall be immediately hoisted at the main, and the pilot shall be at liberty to bring the vessel into port ; but in case the commanding officer shall decline to sign the certificate of health, the pilot shall deliver him a yellow flag, which the master shall hoist at the main, and the vessel shall be placed in quarantine outside of the harbor, and anchored where the pilot may direct. Any pilot who shall conduct a vessel into any port in this kingdom, in violation of the provisions of this section, or any of the regulations of the board of health, or knowing that there is just ground to suspect the existence of contagion on board, shall be liable to a fine not exceeding five hundred dollars ; and every vessel, the master of which shall have declined to sign a certificate of health, as above prescribed, shall, upon entering port, be liable to seizure, confiscation and sale. (Civil Code, Section 595.)

45. If the pilot, after boarding any vessel, shall discover the existence of a contagious disease, he shall not return on shore ; neither shall it be lawful for any of the ship's company or passengers to land, or communicate with the shore, or board any other vessel, without permission of the board of health, or the collector, under a penalty of a fine not exceeding five hundred dollars. (Civil Code, Section 596.)

46. No pilot shall take out any vessel that may be under attachment or arrest, by virtue of any process, nor before she has obtained her clearance, under penalty of forfeiting his commission, and paying a fine not exceeding one thousand dollars. (Civil Code, Section 598.)

47. The compensation of the pilots shall be as follows: One dollar per foot upon the vessel's draft, coming into port, and the same going out of port; for anchoring any vessel off the port of Honolulu, provided the pilot be not detained on board longer than twenty-four hours, ten dollars; and if detained longer than twenty-four hours, five dollars per day for such detention. (Civil Code, Section 599.)

48. If any foreign vessel, or Hawaiian vessel, engaged in foreign trade, shall enter or depart from any of the ports for which pilots may be appointed, without a pilot, such vessel shall be liable to one-half pilotage. (Civil Code, Section 600.)

49. The pilot's fees and the health fees shall form a part of the port charges, which shall be paid by every vessel to the collector of the port, and no collector shall grant a clearance to said vessel until such fees are paid. (Civil Code, Sec. 601.)

50. There shall be appointed in like manner as the pilots, at each of the ports of Lahaina, Kealakeakua, Kawaihae and Koloa, an officer to be called a boarding officer, whose duty it shall be to board every foreign vessel, and every Hawaiian vessel coming from a foreign port, as soon as possible after its arrival; obtain the health certificate; deliver the printed port regulations to the commanding officer; receive the list of passengers to be delivered at the collector's office; and at all times hold himself in readiness to act as pilot when required. It shall also be his duty to report to the proper authorities, all violations, or suspected violations, of the revenue or harbor laws. (Civil Code, Section 602.)

51. Previous to entering upon his duties, every boarding officer shall give to the collector general a bond in the penalty of five hundred dollars, with satisfactory surety, conditioned that he will faithfully and honestly perform all the duties imposed upon him by law; that he will not countenance any evasion or infraction of the revenue laws; and that he will give

notice to the proper authorities of all violations, or suspected violations, of the revenue or harbor laws, that may come to his knowledge. (Civil Code, Section 603.)

52. Every boarding officer shall be entitled to receive from each vessel boarded by him, the sum of five dollars (which shall include pilotage when required), which shall be paid to the collector of the port, before the vessel shall be entitled to receive a clearance. (Civil Code, Section 604.)

CHAPTER LXIX.

TO AID IN THE ESTABLISHMENT OF HOSPITALS FOR THE BENEFIT OF SICK AND DISABLED HAWAIIAN SEAMEN.

CONTENTS.

SECTION 1. Tax upon passengers, arriving from a foreign port, for support of hospitals for sick and disabled Hawaiian seamen.
2. Collectors to make quarterly returns of amounts received.
3. Penalty imposed upon master of any vessel for allowing passengers to land baggage without payment of aforesaid tax.

1. Any passenger arriving from a foreign port at any of the ports in this kingdom, shall be subject to a tax of two dollars for the support of hospitals for the benefit of sick and disabled Hawaiian seamen, which shall be paid to the several collectors of customs before any permit is issued to such passenger in accordance with existing laws, or the provisions of the civil code hereafter to go into effect. (Civil Code, p. 439.)

2. Such collectors shall make quarterly returns, in the manner and form prescribed by law, of the amounts received by them, in pursuance of the foregoing section, to the minister of finance, who is required to hold the same subject to the disposition of the minister of the interior, according to the requirements of the civil code in regard to the hospital tax on Hawaiian seamen.

3. If the master of any vessel shall allow any passenger to land his baggage or other effects, at any port of this kingdom, without the payment of the aforesaid tax, he shall be liable therefor, and also to a penalty of not less than ten nor more than fifty dollars, to be imposed by the collector, in his discretion; such baggage or other effects shall be subject to seizure and sale.

All penalties under this chapter shall accrue to the benefit of said hospital fund.

CHAPTER LXX.

OF SMUGGLING, AND OTHER FRAUDS AGAINST THE PUBLIC REVENUE.

CONTENTS.

SECTION 1. Smuggling defined—penalties.
2. Person charged or suspected of, may be arrested without warrant.
3. Incumbent to prove legal importation and payment of duties.
4. Baggage, or other property, landed without due entry and permit, forfeited.
5. Articles, subject to duty, found in baggage—forfeiture and penalty.
6. Property liable to forfeiture, may be seized either upon land or water.
7. Collector, or other officer of customs, may go on board of and examine any vessel.
8. Upon production of commission, lawful for officer to go on board, search for, seize and secure any suspected goods.
9. When officer is entitled to a warrant for search of suspected goods—duty in case of resistance.
10. Collector or other officer of customs may call upon police officers for assistance—penalty if such officer refuses.
11. Penalty imposed upon persons opposing the due execution of the duties of officers.
12. Suits or prosecutions for violation of revenue laws.
13. Property seized to remain in custody of officer of customs—bond to be given by claimant before delivery of goods.
14. When bond shall be cancelled—judgment upon bond.
15. After condemnation, property to be sold at public auction.
16. Notice of seizure.
17. Proceeds of all property condemned and sold—fines and penalties to be paid to collector general of customs.
18. Division of forfeitures, fines and penalties.
19. Person entitled to a share of forfeiture, fine or penalty, may be used as a witness.
20. Claim for share of forfeiture, penalty, etc., to be stated in writing, under oath.
21. Several claimants to be paid, according to their legal rights.
22. No officer entitled to a share by virtue of his office, nor debarred on account of same—claim of the collector general.
23. Spirituous liquors seized and condemned—subject to legal duties—persons entitled to a share of the proceeds to receive a share of the duties—other property seized, sold without reference to duties.

SECTION 24. Judgment given for claimant—not entitled to costs—person making seizure not liable to suit—property to be returned to claimant.
25. How suits shall be brought.
26. Attaching and divesting the property.
27. When suits shall be commenced.
28. When warrant shall issue for the arrest of the person charged—commitment for trial—may be released upon giving bond.
29. Jurisdiction of police and district judges in cases of smuggling.
30. Appeal.
31. Imprisonment at hard labor in default of payment of fine.
32. Officer making collusive seizure, receiving bribe, etc.—penalty—persons offering bribe—penalty.
33. Words, "goods," "wares," "merchandise," to be construed to include all property.
34. Minister of finance may make, alter and amend rules for collection of duties.
35. Power of minister of finance to mitigate or remit fines, forfeitures or penalties—may direct prosecution to be discontinued.

1. Every person who shall be in any way engaged in the importation, introduction, landing, or transhipping of any goods, wares or merchandise, subject to duty, without paying or securing the payment of such duty, or who shall make out or pass, or attempt to pass, through any custom house, any false, forged or fraudulent invoice, and also his aiders and abettors, shall be deemed guilty of the misdemeanor of smuggling, and on conviction thereof, shall be fined not less than fifty, nor more than one thousand dollars, or imprisoned at hard labor not exceeding two years, in the discretion of the court; and all goods, wares, and merchandise, so smuggled, or attempted to be smuggled, and the vessel from which they are smuggled, or attempted to be smuggled, together with all her boats, tackle, apparel and furniture, and all other boats, vessels, and craft of whatever description, in any way used or engaged in such smuggling, or attempt to smuggle, shall be forfeited, and may be seized, condemned and sold for the benefit of the Hawaiian government. (Civil Code, Section 655.)

2. Any person who shall be charged with, or suspected of, the offense of smuggling, or attempting to smuggle, may be arrested by any officer of the police or customs, without a warrant, and detained until he can be brought before some police or other justice, for examination. (Civil Code, Section 656.)

3. In all cases where any person shall be charged with smuggling, or attempting to smuggle, any goods, wares or merchandise, it shall be incumbent on such person to prove the legal importation, and the payment of the duties required by law. (Civil Code, Section 657.)

4. All baggage, or other property, exempt from duty, landed without due entry and permit, first made and obtained, shall be forfeited, and be liable to seizure and sale. (Civil Code, Section 658.)

5. Whenever any article, subject to duty, shall be found in the baggage of any person, which shall not, at the time of making entry for such baggage, have been mentioned to the collector, it shall be ferfeited ; and the person in whose baggage it shall be found shall forfeit and pay five times the value of such article. (Civil Code, Section 659.)

6. All vessels, boats, goods, wares, merchandise, or other property, liable to forfeiture shall, and may, be seized in any place, either upon land or water, by any collector or other officer of customs, by any person employed for the prevention of smuggling, or by any sheriff, constable, or police officer; and all property so seized by any other person than a collector, shall, as soon as convenient, be delivered into the care of the collector nearest the place of seizure. (Civil Code, Sec. 660.)

7. It shall be lawful for any collector or other officer of customs, to go on board of, and examine any vessel, on her entry into and departure from this kingdom, and at any other time that such collector or other officer may deem it necessary. (Civil Code, Section 661.)

8. It shall be lawful for any collector, or other officer of customs employed for the prevention of smuggling, or for any sheriff, constable, or police officer, to go on board any vessel, when he shall have reason to suspect any goods subject to duty are concealed on board of such vessel, and upon producing his commission, or appointment to office, to search for, seize and secure any such goods. (Civil Code, Section 662.)

9. If any collector, or other officer of customs, or sheriff, constable, or other police officer, shall suspect the concealment of any smuggled goods in any house, shop, cellar, warehouse, room,

hulk, or other place, he shall, upon application to any judge or justice, setting forth under oath, facts sufficient in the opinion of such judge or justice, to justify such suspicion, be entitled to a warrant to enter such house, shop, cellar, warehouse, room, hulk, or other place, and there to search for and secure any such goods; and in case of resistance, to break open doors, chests, trunks, and other packages, and there to seize, and from thence to bring away any smuggled goods, and to place and secure the same in the custody of the collector nearest the place of seizure. (Civil Code, Section 663.)

10. When any collector, or other officer of customs, shall deem it necessary, he may call upon any sheriff, constable, or other police officer, to render him assistance in making or enforcing any search or seizure; and any such officer refusing such assistance, shall be liable to a fine not exceeding five hundred dollars, in the discretion of the court. (Civil Code, Sec. 664.)

11. If any collector, officer of the customs, or other officer, or any person acting in their aid, shall be hindered, opposed, molested or obstructed, in the due execution of his office or duty, in making any search or seizure, or otherwise, by any person whatsoever, every person so hindering, opposing, molesting or obstructing any such officer, or other person, and also any person aiding or abetting in the commission of such offense, shall be liable to a fine of not less than fifty nor more than one thousand dollars, in the discretion of the court. (Civil Code, Section 665.)

12. The collector general, or any other collector of customs, is authorized to cause a suit or prosecution to be issued in his own name, on behalf of the Hawaiian government, for any violation of the provisions of any law relating to the revenue of customs. (Civil Code, Section 666.)

13. All vessels, goods, or other property seized, shall remain in the custody of some collector or other officer of the customs, until it shall have been ascertained whether the same are liable to forfeiture or not: provided, however, that if the claimant of any such vessel, goods, or other property, shall pray to have the property delivered to him, the court may appoint three appraisers, to appraise under oath the value of the same, at the expense of the claimant; and if at the return of the appraise-

ment, the claimant shall give a bond with two good and sufficient sureties, to be approved by the court, for payment to the collector, of a sum equal to the value appraised, and produce a certificate of the duties having been paid or secured, such property shall be delivered to the claimant. (Civil Code, Section 667.)

14. If, upon the trial, judgment shall be given for the claimant, the bond shall be cancelled; but if against him, he must, within twenty days thereafter, pay into court the amount of the appraised value with the costs, or judgment shall be forthwith rendered upon the bond, on motion in open court, or before some judge at chambers. (Civil Code, Section 668.)

15. All property in the custody of any collector, or other officer of the customs, shall, after condemnation, be sold at public auction, upon giving such notice of the time and place of sale, as the court may direct. (Civil Code, Section 669.)

16. When any property shall be seized under any law relating to the revenue of customs, notice of such seizure shall be published in the government gazette, and unless the person from whom it is taken, or the owner, or some person authorized by him, shall, within twenty days from the day of such notice of seizure, give notice to the person seizing the same, or to the collector, that he claims such property, it shall be held to be condemned, and shall be sold as such at public auction. (Civil Code, Section 670.)

17. The proceeds of all property condemned and sold for violation of any revenue law, after deducting legal commissions for selling the same, and all other necessary expenses; and also all fines and penalties imposed for the violation of any revenue law, after deducting the costs of court, shall be paid to the collector general of customs. (Civil Code, Section 671.)

18. The proceeds of all forfeitures, fines and penalties, under the revenue laws, after deducting the legal costs and charges, as provided in the last preceding section, shall be divided as follows:

One-half shall be paid and accounted for by the collector general to the minister of finance, for the benefit of the public treasury; one-fourth to the person who gave the definite infor-

mation which led directly to the seizure, or induced the prosecution; and one fourth to the person who made the seizure or entered the prosecution; if no other person has a claim as informer than the one making the seizure, or entering the prosecution, he shall be entitled to one-half. (Civil Code, Sec. 672.)

19. Any person entitled to a share of any such forfeiture, fine or penalty, may be used as a witness on the trial, but in such case, his share of such forfeiture, fine or penalty, shall belong to the government. (Civil Code, Section 673.)

20. Every person having a claim for a share of any such forfeiture, fine or penalty, shall state the same in writing under oath, to the collector general, within twenty days from the date of the seizure, or from the time the penalty is imposed, otherwise he shall forfeit his claim. (Civil Code, Section 674.)

21. The collector general shall pay over their shares to the several claimants, according to their legal rights, of which he shall be the judge, subject to an appeal to the minister of finance, within ten days after the rendition of the collector's decision. (Civil Code, Section 675.)

22. No officer shall be entitled to a share of any forfeiture, fine or penalty, for any violation of the revenue laws, by virtue of his office, nor be debarred from receiving a share, on account of his office or salary: provided, however, that if the collector general shall be a claimant in any case, his claim shall be filed with, and be heard and determined by the minister of finance, subject to no appeal. (Civil Code, Section 676.)

23. All spirituous liquors seized and condemned for any violation of the revenue laws, shall be sold in bond, and be subject to exportation, or to withdrawal for consumption, upon payment of the legal duties, the same as if they had been legally imported; and the person or persons entitled to a share of the proceeds of the liquors condemned and sold, shall receive a share of the duties actually paid on such liquors, in the proportion of their shares in the proceeds. All other property, so seized and condemned, shall be sold without any reference to duties. (Civil Code, Section 677.)

24. When in any suit for the forfeiture of any vessel, goods, or other property, judgment shall be given for the claimant, if

it shall appear to the court, or judge trying the case, that there was probable cause of seizure, such court or judge shall cause a certificate to be made thereof, and in such case the claimant shall not be entitled to costs, nor shall the person who made the seizure, or the prosecutor, be liable to a suit on account of such seizure or prosecution; but the vessel or other property must be, after judgment, forthwith returned to such claimant or his agent. (Civil Code, Section 678.)

25. All suits to procure a decree of forfeiture, condemnation and sale, against any vessel, boat, goods, or other property, may be brought in the supreme court, in any circuit court, or before any judge of the supreme or circuit court at chambers, and they shall have exclusive jurisdiction to try and determine such cases: provided, always. that the several police justices shall have concurrent jurisdiction to try and determine any such suit, where the value of the property does not exceed five hundred dollars. (Civil Code, Section 679.)

26. Forfeitures for the violation of any provision of the revenue laws, shall attach and divest the property the moment the offense has been committed, and no sale or other change of property shall purge the forfeiture. (Civil Code, Section 680.)

27. All suits brought against any person, vessel, goods, or other property, for the violation of any provision of the revenue laws, and all suits brought against any officer of the customs, or other person, for anything done in pursuance of the revenue laws, shall be commenced within six months after such violation is discovered, or such thing done. (Civil Code, Section 681.)

28. Upon sworn complaint to any justice, charging any person with the violation of any provision of the revenue laws, and setting forth sufficient facts to warrant said justice in the belief that such violation has been made, he shall issue a warrant for the arrest of such person, commanding that he be brought before him for examination. If, after the examination of the accused, the justice shall be of the opinion that there is probable cause to believe, upon the evidence produced to him, that a conviction would take place before a jury, he shall commit the accused to prison, to await his trial at the next term of the supreme or circuit court: provided, however, that the ac-

cused may be released from prison, upon giving a bond with two good and sufficient sureties, to be approved by said justice, conditioned for the payment of any fine that may be imposed upon him, if found guilty, or that he will appear at the time of trial, and answer to the charge; and further provided, that nothing in this section contained shall be construed as interfering with the jurisdiction of the police justices in cases of smuggling and other offenses, as provided in the next succeeding section. (Civil Code, Section 682.)

29. The respective police and district justices throughout the kingdom, shall have jurisdiction to try and determine all cases in which any person shall be charged with smuggling, or attempting to smuggle, and all other offenses against any provision of the revenue laws, when the amount of the fine does not exceed five hundred dollars. (Civil Code, Section 683.)

30. In case any person charged with, and convicted of, an offense against the revenue laws, shall desire an appeal, it shall be incumbent upon him to first pay the amount of the accrued costs and fine, or to give a bond for the payment of the same, signed by at least two good and sufficient sureties, to be approved by the court by whom he was tried. (Civil Code, Section 684.)

31. Every person who shall be fined for a violation of any provision of the revenue laws shall, in case he fail to pay such fine, be imprisoned at hard labor until such fine be paid or remitted, or until he shall have earned a sum equivalent to such fine. (Civil Code, Section 685.)

32. If any officer shall make any collusive seizure, or shall deliver up, or shall make any agreement to deliver up, or not seize, any vessel, boat, or other property liable to seizure, or shall directly or indirectly take or receive any bribe, gratuity, recompense, or reward, for the neglect or non-performance of his duty, he shall, for each such offense, be liable to a fine of not exceeding two thousand dollars, and be rendered incapable of serving the King in any office or employment; and if any person shall give any bribe, recompense or reward to, or make any such collusive agreement with, any such officer, whether the offer, proposal, promise or agreement, be accepted or performed, or not, he shall be liable to a fine of not exceeding two thousand dollars. (Civil Code, Section 686.)

33. Whenever the words "goods," "wares," and "merchandise," or either of them, are used in this chapter, the same shall be construed to include all property of whatever kind or description. (Civil Code, Section 687.)

34. The minister of finance shall have power, from time to time, to make, alter and amend, such rules and regulations for the collection of duties and the transaction of the business of the custom houses, not in conflict with any law, as he may deem proper, giving due notice of the same in the government gazette. (Civil Code, Section 688.)

35. Any person who has incurred any fine, penalty or forfeiture, for a breach of any provision of the revenue laws, or is interested in any vessel, or merchandise, subject to seizure, forfeiture, or disability, may petition the minister of finance, setting forth the circumstances of his case, and praying that the same may be mitigated or remitted, and the said minister may mitigate or remit such fine, forfeiture, or penalty, or remove such disability, or any part thereof, and he may direct any prosecution for such fine, penalty or forfeiture, to be discontinued upon such terms as he may deem reasonable. (Civil Code, Section 689.)

CHAPTER LXXI.

OF THE SHIPPING AND DISCHARGE OF SEAMEN.

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1. It shall not be lawful for the master or commanding officer of any foreign vessel, or of any Hawaiian vessel engaged in foreign trade, under penalty of a fine not exceeding one hundred dollars, to ship or discharge any seaman or other person employed on board of his vessel at any other port or place in the Hawaiian Islands than at Honolulu, Lahaina and Hilo. (Civil Code, Section 129.)

2. The minister of the interior may, in his discretion, grant to any suitable person or persons applying therefor, in writing, a license for one year to establish a shipping office for foreign seamen, at either of the ports of Honolulu, Lahaina or Hilo: provided, however, that not less than two licenses shall be granted for the port of Honolulu. And if, at any time, there shall be found to be any business connection between the par-

ties having licenses under this law, their licenses and bond shall be forfeited. (1864, p. 4.)

3. Before granting a license to keep a shipping office, the minister of the interior shall receive at the hands of the applicant, the sum of three hundred dollars, if the license be for Honolulu, and fifty dollars if the license be for either Lahaina or Hilo, and also a bond with good and sufficient sureties, to be approved by the said minister, in the penal sum of two thousand dollars, conditioned that he shall not charge or demand more than three dollars as a shipping fee, nor more than ten per cent. of the amount advanced, as a surety fee from any seaman shipped at his office ; that he will at no time make default in repaying the amount advanced on account of any seaman for whom he may have become surety, and whom he may have failed to deliver on board any vessel, at the time agreed upon by the master or agent of such vessel ; and that he will in no case ship a seamen who has not a permit from the harbor master ; or contribute in any way to the infraction of the laws of the kingdom. Said bond shall be executed in the presence of, and acknowledged before the minister of the interior, who shall forward a certified copy thereof to the police justice of the port for which the license is granted, and such copy shall be considered as competent evidence in any case relating to such bond.

4. In every case of a suit for a breach of the bond given by any shipping master, the police justice of the port shall have jurisdiction over, and may decide the same, without the aid of a jury, subject, however, to the right of appeal. (Civil Code, Section 132.)

5. When the condition of the official bond of any shipping master shall be broken, to the injury of any person, such person may, at his own expense, institute a suit thereon, in the name of the minister of the interior, and prosecute the same to final judgment and execution. (Civil Code, Section 133.)

6. It shall be the duty of every shipping master, to demand and receive the harbor master's permit from every seaman whom he may ship, and place the same at the disposal of the chief of police of the port, and he shall also deliver to every such seaman a certificate of his shipment, stating the name of

the ship on which he is engaged to serve, and the time at which he is to render himself on board. (Civil Code, Section 134.)

7. Whoever, without a license, shall ship a foreign seaman, shall be subject to a fine of one hundred dollars for each offense, upon conviction thereof before a police justice: provided, however, that nothing in this section contained, shall be construed to forbid masters of vessels to ship seamen for their own vessels, without the intervention of a shipping master. (Civil Code, Section 135.)

To establish the offense contemplated in this section, it is sufficient to prove that the party charged therewith has procured the shipment of a foreign seaman as an agent, for a beneficial consideration, although he may not have demanded or received a shipping fee, or surety fee, by a percentage of the amount advanced to the seaman shipped. (1860, p. 3.)

8. No commanding officer of any foreign vessel, or Hawaiian vessel engaged in foreign trade, shall discharge any seaman in any port of the Hawaiian Islands, without the written consent of the harbor master of such port; nor shall any consul, or vice consul, or consular agent, grant his consent to the discharge of any such seaman until the written consent of the harbor master has been first obtained. Whoever shall violate any of the provisions of this section shall be subject to a fine not exceeding one hundred dollars in the discretion of the court. (Civil Code, Section 136.)

9. Upon the application of any consul, vice consul, or consular agent, for the discharge of any foreign seaman, and upon his filing with the harbor master the bond of such seaman, in the penal sum of one hundred dollars, conditioned that he will leave the kingdom within sixty days from his discharge, and will not be guilty of any breach of the laws during his stay on shore, said harbor master may, if he sees no good reason to the contrary, give his consent to such discharge, and grant a permit to the seaman to remain on shore for sixty days. The seaman's discharge shall be written at the foot of every such permit, and the harbor master shall keep a record of the same. (Civil Code, Section 137.)

10. In case of Hawaiian vessels engaged in foreign trade, and vessels having no consul resident at the port where they

wish to discharge seamen, the harbor master may consent to such discharge, upon the application of the master of any such vessel. (Civil Code, Section 138.)

11. If at the expiration of the time allowed in the permit of any foreign seaman, he shall not have departed this kingdom, he may, in addition to the forfeiture of his bond, be treated as a deserter: provided, always, that the harbor master may, upon satisfactory proof that such seaman is peaceably disposed, from time to time, extend the period allowed for his departure, to a further sixty days, without a forfeiture of the condition of his bond. (Civil Code, Section 139.)

12. No foreign seaman, regularly discharged from any vessel, shall be liable for any debts contracted by him within the period of his permit to remain in the kingdom; provided, always, that this exemption shall not apply to any period for which his permit may have been extended, beyond the first sixty days. (Civil Code, Section 140.)

13. No seaman, legally attached to any vessel, while lying in any of the ports of this kingdom, shall be liable for any debts he may contract while so attached. (Civil Code, Section 141.)

14. No master or commanding officer of any foreign vessel, or any Hawaiian vessel engaged in foreign trade, shall ship or take out of the kingdom, on board his vessel, any native, as a seaman or otherwise, for his own use, or for the use of any other person, without first obtaining the consent of the governor of the island, or of his agent, under penalty of a fine not exceeding five hundred dollars, for each offense, to satisfy which his vessel shall be liable to seizure, condemnation and sale. (Civil Code, Section 142.)

15. No application for the shipment of natives on board a foreign vessel, or Hawaiian vessel engaged in foreign trade, shall be considered legally granted until the commanding officer shall have made and executed a bond to the governor, or his agent, in the penalty of three hundred dollars for each man, with at least one sufficient surety, to be approved by the governor, or his agent, in the following form: (1864, p. 5.)

KNOW ALL MEN BY THESE PRESENTS, that we ——, master of the ship ——, of ——, in ——, and now destined on a —— voyage, principal, and ——, of ——, Hawaiian Islands, surety, are held and firmly bound unto his excellency,

———, governor of the island of ———, and to his successors in office, and assigns, in the penal sum of ——— dollars lawful money, to be levied of the said vessel, whereof the said ——— is master, wheresoever the same may be, or of our joint and several property, in case the condition herein named shall be violated.

Sealed with our seals, and dated this ——— day of ———, 18—.

The condition of this obligation is that whereas the said ———, principal, having made application for the shipment of ——— natives of the Hawaiian Islands (*as sailors or otherwise, as the case may be*), for the term of ——— from this date, to serve on board his vessel.

Now if the said ——— shall, within ——— from this date, return the said ——— natives to the Hawaiian Islands, and shall in all respects comply with the terms of their shipment prescribed in sections 146, 148 and 152, of the civil code, then this obligation to be void, otherwise to remain in full force and virtue.

Given under our hands and seals at ———, in the island of ———, the day and year first above written.

——— ——— (L. S.)
——— ——— (L. S.)

16. The governor of the island to whom said bond shall have been given, shall have the power to enforce the same, by suit against the obligors therein named, or either of them, or against the vessel for whose use said sailor shall have been shipped. He shall also have power, in case of the death of any such sailor, or for other equitable considerations, to remit the penalty of said bond, notwithstanding a violation thereof. (Civil Code, Section 144.)

17. Whenever the governor, or his agent, shall consent to any shipping, or taking away, of any native, he shall endorse such consent upon the shipping articles of the vessel; and shall receive for each native thus shipped, or taken away, the sum of fifty cents. (Civil Code, Section 145.)

18. On the shipping of any native to serve on board of any vessel bound on a foreign voyage, the master of such vessel shall pay to the governor of the island, or his agent, in lieu of the personal taxes of such native, the sum of six dollars, if the term for which he has shipped shall not exceed twelve months; and if it be for any period over twelve months, the sum of twelve dollars. And the same shall not be deducted from the wages of any seaman. (1864, p. 6.)

19. Every native of this kingdom who has shipped in a vessel bound on a foreign voyage, the master of which vessel has complied with the provisions of the last preceding section, shall be free from all personal taxes during the period of his service on board of such vessel, and until his return to this kingdom. (Civil Code, Section 147.)

20. No portion whatever of the expenses of shipping or discharging native sailors, shall be paid by them, or be deducted from the share or wages due them, but shall be paid wholly by the master of the vessel. (Civil Code, Section 148.)

21. Every sailor, whether a native or a foreigner, who shall have been employed on board any vessel, without having made a specific written agreement with the master, or shipping master, or commander of such vessel, respecting his service and wages, shall be entitled to receive compensation for his services, at the highest rate of wages paid to any person of his class on board said vessel. (Civil Code, Section 149.)

22. The minister of the interior shall appoint in each of the ports of Honolulu, Lahaina, and Hilo, one or more agents, in whose presence, or in the presence of whose deputies, all native seamen of this kingdom shall be shipped, discharged and paid off. (Civil Code, Section 150.)

23. Every such agent, before entering upon the duties of his office, shall give a bond to said minister, in the penal sum of two thousand dollars, with good and sufficient sureties to be approved by said minister, conditioned that he will honestly and faithfully discharge all the duties of his office. Every such agent shall hold office for the term of two years, but may be removed at any time by the minister of the interior. (Civil Code, Section 151.)

24. When any native seaman is discharged from any whale ship, or other vessel engaged in foreign trade, the master thereof shall, previous to settlement with such seaman, exhibit to the agent appointed by the minister of the interior, or to his deputy, a detailed account of the debts incurred by said seaman to said vessel, and the amount of wages earned by said seaman, which account shall, if required, be verified by oath, to be administered by the said agent. (Civil Code, Sec. 152.)

25. It shall be the duty of the agent appointed to superintend the shipping and discharge of native seamen, upon the request of any such seaman, to render him all the assistance in his power in making his agreement as to service and wages, with the master of the vessel with whom he is about to ship, and to see that his name is duly entered on the crew list and shipping articles of such vessel, in conformity with the laws of

the country to which she belongs. (Civil Code, Section 153.)

26. It shall not be lawful for said agent to ship any native seaman for a longer term of service than two years. (Civil Code, Section 154.)

27. It shall be the duty of said agent to keep all bonds for the return of native seamen, as provided in section 15; and, upon the expiration of the term specified in said bond for the return of any such seaman, it shall be his duty to forward such bond to the district attorney of the island where he is located, and at the same time notify him that its term has expired. Said district attorney shall prosecute the same within twenty days after receiving it, unless instructed to the contrary by the governor of said island. (Civil Code, Section 155.)

28. In case of the death of any native seaman during the voyage, said agent shall be empowered, in his own name, to demand, sue for, and receive the wages due said seaman, and to pay it over to his legal representatives. (Civil Code, Sec. 156.)

29. Said agent, in case of any difficulty with the master of a vessel in relation to the settlement of his account with any native seaman, shall be at liberty to call upon the district attorney of the island where he is located, for his assistance, and said attorney shall render his assistance free of charge. (Civil Code, Section 157.)

30. The compensation of said agent shall be fifty cents for each seaman shipped or discharged before him, and two and a half per cent. on the amount paid to each seaman; which compensation shall be a full satisfaction for all services rendered. Such compensation shall be wholly paid by the vessel, except the two and a half per cent. commission on the amount paid to each seaman. (Civil Code, Section 158.)

31. No shipment or discharge of, or settlement with any native seaman, shall be binding upon him unless done in the presence or with the written sanction of the agent appointed by the minister of the interior, or of his deputy. (Civil Code, Section 159.)

32. It shall be the duty of every such agent to make a quarterly report of the transactions of his office, together with the amount of fees and commissions received by him, to the minister of the interior. (Civil Code, Section 160.)

33. The master or owner of every ship or vessel under the Hawaiian flag, arriving from any foreign port, or from sea, at any port of the Hawaiian kingdom shall, before such ship or vessel is admitted to entry, render to the collector of such port, a true account of the number of seamen who have been employed on board since the last entry at any Hawaiian port; and pay to said collector at the rate of twenty-five cents per month for each and every seaman so employed, which amount such master or owner is authorized to retain out of the wages of said seaman. (Civil Code, Section 161.)

34. The master of every coasting vessel employed in the carrying trade between the different ports, roadsteads or harbors of the Hawaiian kingdom, shall render quarterly to the collector general of customs, or to any collector under his directions, a true list of all seamen employed by him during the preceding three months; and pay to said collector general, or collector, at the rate of twenty-five cents per month for each and every seaman so employed, which sum said master is authorized to retain out of the wages of such seaman. (Civil Code, Sec. 162.)

35. The returns required in the preceding sections shall be made under oath in such manner and form as the collector general may prescribe. If any owner or master shall make a false return, he shall be deemed guilty of perjury, and be punished accordingly. He shall also be subject to a penalty of one hundred dollars, for the benefit of the fund hereinafter created, and his vessel be liable to seizure, condemnation and sale, to secure the payment of such penalty. (Civil Code, Sec. 163.)

36. The several collectors shall make a quarterly return of the sums respectively collected by them under the foregoing provisions, to the collector general, who is required to pay over the same, with such amount as he may have received from masters or owners of vessels, into the public treasury, to be held solely as a "marine hospital fund" for the relief of sick and disabled Hawaiian seamen. The minister of the interior is hereby authorized to provide out of the same, for the temporary relief and maintenance of such seamen, in such manner as he may deem proper, until hospitals, or other suitable institutions, are established for that purpose within the kingdom. (Civil Code, Section 164.)

37. Whatever surplus of moneys collected under the foregoing provisions may remain, after defraying the expenses of such temporary relief and support, shall be invested in exchequer bills, or other government securities at the discretion of the minister of the interior, until a sufficient fund is accumulated for the purchase of a proper site for a marine hospital, and the erection of suitable buildings thereon, or for the provision of other suitable hospital accommodations for seamen, when it shall be his duty to apply such fund for that purpose. Said minister is authorized to receive at any time, in the name of the government, donations of land, money, or other property for marine hospitals; and the same shall be set apart and applied only to that object. (Civil Code, Section 165.)

38. If a general or other hospital should be established in any of the seaport towns of the kingdom, the minister of the interior may, at his discretion, contract with the same to apply any part of the marine hospital fund to the support thereof, on condition that full provision is made for the accommodation, relief and maintenance of sick and disabled Hawaiian seamen. (Civil Code, Section 166.)

39. No contract entered into within the jurisdiction of this kingdom, between a native subject of the realm and the owners, agent or master of any foreign vessel, for the performance of services as a seaman, shall have any binding effect, or be regarded as operative, in the courts of this kingdom, unless the said owners, agent or master have complied with the statute laws of this kingdom regulating the enlistment of native sailors. (Civil Code, p. 432.)

40. Any native subject of the realm who may enter into a contract to perform services as a seaman on board of a foreign vessel, without the written consent of the governor of the island, or his agent, upon which the contract is entered into, having been first obtained according to the law of the land, shall be subject to a penalty of fifty dollars, to be recovered by prosecution in the courts of the island where the contract is made, and also to be arrested and detained by the order of the governor thereof, or the government shipping agent, until the vessel upon which he has agreed to perform the duties of a seaman, has departed the kingdom. (Civil Code, p. 433.)

CHAPTER LXXII.

OF THE ARREST AND DETENTION OF DESERTERS AND MUTINEERS.

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1. If any seaman desert from a vessel, the commanding officer shall, under the penalty of a fine not exceeding one hundred dollars, within forty-eight hours thereafter, inform the chief of police of the port of such desertion, who shall cause diligent search to be made for such deserter, to the end that he may be restored to his vessel. (Civil Code, Section 621.)

2. In case of the arrest of any deserter near the port, where the vessel is at anchor, the chief of police shall be entitled to receive from the commanding officer for such arrest, the sum of six dollars; and if arrested at a distance of more than five miles from the port, said chief of police shall be entitled to receive the sum of twelve dollars, besides such necessary expenses as may have been incurred in arresting such deserter, and bringing him to the port. (Civil Code, Section 622.)

3. Every seaman who shall desert from the vessel on which he has shipped, bound for a foreign voyage, after the said vessel shall have left port, shall, on being arrested, pay back to the agent of said vessel the amount of his advance, or in default thereof, be confined at hard labor for the term of not more than six, nor less than four months, in the discretion of the court. (Civil Code, Section 623.)

4. In case the commanding officer of any vessel shall decline

to receive any deserter from his vessel upon arrest, and such deserter shall remain in prison after his arrest, the commanding officer shall pay one dollar per day for the time during which said deserter shall so remain imprisoned ; and in all cases when a vessel shall leave the port, and any person who deserted from the same shall remain in prison, or be arrested thereafter, the said deserter shall be liable to pay the fee for his arrest as provided in section 2 of this chapter, and for his detention as above prescribed. (1860, p. 9.)

5. The agents, owners, or masters of vessels, on account of whom the deserters have been apprehended, shall, upon the requisition of the local authorities, take or send such deserters out of the kingdom, or give security to the satisfaction of the chief of police, for their good conduct ; and in case any such agent, owner or master, shall refuse or neglect to comply with such requisition, he shall be subject to the payment of five dollars per day, for the time during which any such deserter is detained in custody. (Civil Code, Section 625.)

6. All deserters, not taken or sent out of the kingdom, may be put to hard labor, during their confinement, by the chief of police, at his discretion. (Civil Code, Section 626.)

7. Any person aiding or abetting the desertion of any seaman, shall be subject to a fine not exceeding one hundred dollars, in the discretion of the court. (Civil Code, Section 627.)

8. Upon written application made to the chief of police of any port, by any foreign consul, vice consul, or commercial agent, residing in this kingdom, requesting the arrest of any mutinous person, or persons, on board of any vessel of his nation, being within the jurisdiction of this kingdom, it shall be lawful for such chief, or any other officer of police, to proceed on board such vessel, and arrest the person or persons described in such application : provided such consul, vice consul, or commercial agent, shall state in his application, that he will indemnify the chief of police from all damages, which may result from said proceeding, and from the detention of such person or persons, and that he will pay all costs and charges incident thereto. (Civil Code, Section 628.)

9. It shall be lawful for the chief of police to detain such arrested person or persons, in prison, until called for by the foreign agent, who caused their arrest. (Civil Code, Sec. 629.)

CHAPTER LXXIII.

OF THE REGISTRY OF VESSELS.

1. Upon the payment or discharge of any mortgage, or hypothecation, upon a registered vessel, or any part thereof, it shall be the duty of the mortgagee or pledgee, or his lawful representative, to execute and deliver to the mortgagor or pledger a release duly acknowledged, which shall be entered of record by the collector general; or to cancel the same upon the record by written entry of satisfaction thereon, under penalty of a fine not exceeding one hundred dollars, for every such neglect or refusal, and under a further liability to pay all damages occasioned thereby. (Civil Code, Section 642.)

CHAPTER LXXIV.

OF PASSPORTS.

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SECTION 1. Application for passport when departing the kingdom.
2. Cases when it shall not be lawful for collectors to grant passports.
3. Collector may cancel passport when obtained by any deceit, etc.
4. No passport to prevent arrest upon process.
5. Penalty for departing the kingdom without passport.
6. Collector subject to fine—granting passport contrary to law and refusing to cancel the same in accordance with law—remedy of party injured by civil action.
7. Penalty for conveying out of kingdom persons not having passports—master of vessel liable for all debts of such person—failing to pay, vessel subject to seizure, etc.
8. Minister of foreign affairs may issue passports.
9. Said passports issued free of charge.
10. A person may leave and return under same passport within one year.
11. In case of refusal by collector to grant or cancel a passport, how it may be obtained.

1. Every person who may have resided on these islands for more than thirty days, wishing to leave the kingdom, shall make application to the collector of the port from which he intends to sail, for a passport. (Civil Code, Section 645.)

2. It shall be lawful for the collectors of customs, and in case of their sickness or absence, for their respective deputies, to grant passports to all applicants for the same, as provided in the last preceding section, upon the payment of one dollar, the price of the stamp, except in the following cases:

First. In case of the indebtedness or obligation to pay money, of the applicant, to the government or to any private individual, of which the collector has received written notice, accompanied by a request not to grant a passport;

Second. In case the applicant is a party defendant in a suit, civil or criminal, pending before any court in this kingdom, of which the collector shall have received written notice;

Third. In case of a writ of *ne exeat regno*, or any other pro-

cess to arrest or stay the departure of the applicant, shall have been issued by any court of the kingdom, of which the collector shall have received notice in writing ;

Fourth. In case of a written complaint being made to the collector, that the applicant is about to depart the kingdom, leaving his wife or family unprovided for. (Civil Code, Section 646.)

3. Every collector of customs may, after granting a passport, cancel the same, upon being satisfied that it was obtained by any deceit or misrepresentation ; or that the permission to leave the kingdom will work great wrong or injustice to the government, or to any individual. The collector shall, within twenty-four hours after cancelling any such passport, give written notice of such cancellation to the master or commanding officer of every vessel in port, either by personal service, or by leaving the same on board such vessel, and shall forward a like notice to the government gazette for publication. (Civil Code, Section 647.)

4. No passport shall be construed to prevent the arrest of any person obtaining the same, upon process issuing out of any court of the kingdom. (Civil Code, Section 648.)

5. Every person who shall depart from any port in the kingdom with the intention of leaving the same, without first obtaining a passport, shall be subject to a fine not exceeding one hundred dollars, in the discretion of the court. (Civil Code, Section 649.)

6. Every collector who shall grant a passport contrary to the provisions of section 2, and shall refuse to cancel the same in accordance with the provisions of section 3, previous to the departure of the person obtaining the same, shall be subject to a fine not exceeding one hundred dollars, in the discretion of the court ; and the party injured thereby may have his remedy against him by a civil action. (Civil Code, Section 650.)

7. Every master or commanding officer of a vessel, who shall convey out of this kingdom, any person not having a passport, shall be subject to a fine of fifty dollars, and be liable for all debts which such person may have left unpaid in this kingdom ; and if he shall fail to pay such fine and debts, such vessel shall be subject to seizure, condemnation and sale for the payment

thereof: provided, always, that none of the provisions of this section, or article, shall be construed as applicable to any seaman legally shipped on board of any vessel. (Civil Code, Section 651.)

8. The minister of foreign affairs may issue passports to all ministers, diplomatic agents, and consuls of the King, sent abroad, and to the consuls and other commercial agents of foreign governments, and to all subjects of the kingdom going abroad, who may desire the same. (Civil Code, Section 453.)

9. Said passports shall be issued free of charge, signed by the said minister, and impressed with the seal of his department; and shall exonerate all masters of vessels, from any liabilities for having conveyed the persons named in such passports out of the jurisdiction of this kingdom. (Civil Code, Section 454.)

10. Any person who has obtained a passport to leave the kingdom, who may leave and return within one year, may leave again under the same passport, there being no written notice filed against him: provided it be vised by the collector of the port, at which any such party may embark. After the lapse of one year a new passport shall be required. (Civil Code, Section 653.)

11. In all cases in which any collector shall have refused, or cancelled a passport, on any of the grounds set forth in sections 2 and 3, such collector may, in case such applicant shall file with him a sufficient bond with sureties to be approved by him, conditioned that said applicant will pay the amount of his indebtedness, or obligation, or abide the results of the suit, and pay the amount of any judgment that may be rendered against him in any pending suit, or provide for the support of his family, as the case may be. issue a passport to the party applying for the same. (Civil Code, Section 654.

CHAPTER LXXV.

OF WRECKS AND SHIPWRECKED GOODS.

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SECTION 1. Duties of marshal, sheriffs. etc.
2. Duty of governors on receiving information of any shipwreck.
3. Sheriff may employ persons to assist in preserving property—penalty for disobeying orders of sheriff.
4. Sheriff to take inventory of property—his compensation for services.
5. In case of disagreement between sheriff and the other party as to sum due to sheriff.
6. Compensation to be paid to sheriff only—except in certain case.
7. Fine for intermeddling with property shipwrecked.
8. Sheriff subject to fine if he do not publish the particulars of the shipwreck, and of goods found.
9. Certain property may be disposed of by public auction.
10. Property of a perishable nature.
11. Duty of sheriff if no person interested shall appear.
12. Duty of sheriff in all other cases.
13. "Sheriff," how construed.

1. It shall be the duty of the marshal, sheriffs, and their deputies throughout the kingdom, under the direction of the respective governors, to take charge of, secure and preserve for the owners thereof, all wrecks and wrecked goods that may be cast upon the shores of their respective jurisdictions. (Civil Code, Section 360.)

2. Every governor immediately on receiving intimation of any shipwreck, or of the finding of any shipwrecked property to the amount of one hundred dollars, or more, on any of the shores or waters within his jurisdiction, shall order the sheriff to repair to the place where said wreck or property may be found, and in case the same shall not be in custody of any owner or agent, he shall take charge thereof, and shall secure and preserve the same for the owners. (Civil Code, Section 361.)

3. The sheriff, in such case, may employ as many persons, as he shall think proper, to assist in preserving the property,; and he may appoint guards to receive the same, and may suppress

all tumults and disorders; and if any person ahall disobey any lawful order of the sheriff, he may be imprisoned summarily, as the case may require, and upon subsequent trial he shall be fined for every such offense in a sum not exceeding ten dollars, or be imprisoned at hard labor for a term not exceeding three months. (Civil Code, Section 362.)

4. The sheriff shall, on every such occasion, take an inventory of all the property that shall come to his possession; and when required bp the owner of the property, or his agent, or by any person interested, he shall make oath to the truth of such inventory, and shall deliver a copy thereof, if required, together with all the said property, to the owner, or agent, or other person lawfully authorized to receive it: provided there shall be first paid, or secured to be paid, to the sheriff, a reasonable compensation for his services, and such custom house duties and other charges, if any, as he shall have paid or become liable to pay, on account of the property in question. (Civil Code, Section 363.)

5. If the sheriff and the other party shall not agree on the sum so due to the sheriff, then the case may be submitted to arbitrators, to be chosen by the respective parties; but, if the other party shall not agree to submit the case to arbitrators, it shall be forthwith submitted to some judge of the supreme court, or circuit court of the island, who shall, either in vacation or term time, hear and decide the case in a summary manner, on due notice, and may issue such process as may be necessary to carry his decision into effect. (Civil Code, Section 364.)

6. No person interested in any such property, shall be held to pay to any person, other than a sheriff, any compensation for services or expenses in taking or securing the property, unless it be for property taken or secured before the arrival of the sheriff. (Civil Code, Section 365.)

7. If any person shall, after the arrival of the sheriff, take, detain, or intermeddle with any property shipwrecked, or found as aforesaid, except under the direction of the sheriff, owner, or agent, or other person interested, he shall be subject to a fine not exceeding five hundred dollars, in the discretion of the court. (Civil Code, Section 366.)

8. The sheriff, as soon as may be after his arrival at the place

where such property shall be found, shall publish the particulars of the shipwreck, and of the goods found, with such other material facts as he shall ascertain, in such manner as he shall deem best for the information of all parties interested ; and in case of neglect so to do, he shall be subject to a fine not exceeding one hundred dollars. (Civil Code, Section 367.)

9. The sheriff, under direction of the governor, may dispose of so much of the property by public auction, as shall be necessary to pay duties thereon for which they may be liable to the custom house. (Civil Code, Section 368.)

10. He may sell by auction to the best advantage, such of the property as may be of a perishable nature, whenever necessity may require it, giving reasonable public notice, and if practicable, in a public newspaper. (Civil Code, Section 369.)

11. If no person interested shall appear and establish his claim to such property, the sheriff shall present, under oath, to the consul or vice consul, if there be one in the kingdom, of the nation to which the wrecked property may belong, in case of its being foreign property, an inventory of the same ; and if sold, an account of the sales ; with an account of all moneys paid by him as duties and expenses on the same ; and he shall pay and deliver to such consul or vice consul, the balance of such accounts, with all the property remaining in his hands, and all papers found by him on board such wreck. (Civil Code, Section 370.)

12. In all other cases, the sheriff shall render a like account, and pay over the balance to the minister of finance, who shall retain the same, subject to the claims of the parties interested, for the period of two years, when, if remaining unclaimed, it shall be used for the benefit of the public treasury. (Civil Code, Section 371.)

13. In any law relating to wrecks and shipwrecked property, the word "sheriff" shall be construed to mean marshal, sheriff, or deputy sheriff. (Civil Code, Section 372.)

CHAPTER LXXVI.

TO PUNISH BARRATRY.

1. If any captain, or other officer, or mariner, of a ship or vessel, on the high seas, or any other waters, within the admiralty or maritime jurisdiction of this kingdom, shall piratically or feloniously run away with such ship or vessel, or any goods or merchandise on board such ship or vessel, to the value of fifty dollars, or yield up such ship or vessel voluntarily to any pirate, every such person so offending shall be deemed guilty of felony, and, on conviction thereof, shall be punished by fine not exceeding ten thousand dollars, or by imprisonment at hard labor not exceeding ten years, or both, according to the nature or aggravation of the offense. (1868, p. 35.)

CHAPTER LXXVII.

NOTARIES PUBLIC.

CONTENTS.

SECTION 1. Penalty for neglect of notary or his representatives to deposit records with clerk of court in certain cases.
2. Division of forfeitures under preceding section.

1. On the resignation, removal from office, or death, of any notary public, his records shall be deposited with the clerk of the nearest court of record to the place where his office was situated; and by a neglect for three months to comply with the above requisition, such notary, his executor or administrator, shall forfeit not less than fifty, nor more than five hundred dollars, in the discretion of the court. (Civil Code, Sec. 1274.)

2. All forfeitures under the preceding section shall be one-half to the government, and the other half to him who shall sue for the same. (Civil Code, Section 1275.)

CHAPTER LXXVIII.

MASTERS AND SERVANTS.

CONTENTS.

SECTION 1. Kinds of servants in this kingdom.
2. The manner in which minors, both male and female, may be bound as apprentices or servants.
3. Contract must be in two parts.
4. Agreement inserted in every contract of minor.
5. Age to be inserted.
6. All considerations of money, etc., secured to sole use of minor.
7. Parents, guardians, etc., to inquire into the treatment of minors—duty to defend them from cruelty.
8. In case of cruelty, misusage, etc., by master, complaint may be made.
9–10. Duty of magistrate.
11. Master liable to action on contract, whether complaint be filed or not.
12. Parties by whom action may be brought.
13. Term of commencing the action.
14. When magistrate may discharge minor from service.
15. Warrant may issue to apprehend deserting apprentice or servant—punishment for leaving service without just cause.
16. Authority of the justice's warrant.
17. How the costs of process shall be paid.
18. Gross misconduct of apprentice or servant—powers of justices to hear and determine complaints of master.
19. Judgment of magistrate in case master's complaint is sustained—costs.
20. Minor not bound after death of master.
21. Foregoing provisions apply as well to mistresses as to masters.
22. Adults may bind themselves.
23. As to engagements of service contracted in a foreign country.
24. Desertion from lawfully bound service—duty of magistrates—punishment for desertion.
25. Punishment for refusing to serve according to contract.
26. Authority of justice's warrant or order, under section 24.
27. Costs of process under sections 24 and 25—how paid.
28. Penalty against master guilty of cruelty, misusage, etc., towards person bound to service.
29. Servants not bound after death of master, except in certain cases.
30. Civil action for damages by master or servant.

SECTION 31. Contracts to be written and printed in Hawaiian and English languages.
32. Minister of the interior authorized to prepare printed forms of contract in both languages.

1. There are two kinds of servants in this kingdom, viz :

(1.) Apprentices, that is, those engaged to serve any one in order to learn some art, trade, profession, or other employment.

(2.) Those who engage to serve by the day, week, month, year, or other fixed time, in consideration of certain wages. (Civil Code, Section 1396.)

2. All minors above the age of ten years, may be bound as apprentices or servants, if females, to the age of eighteen years, or to the time of their marriage within that age ; and if males, to the age of twenty years, in the manner following :

(1.) By the father of such minor ; or, if he be dead, or be incompetent so to do from lunacy, idiocy, habitual drunkenness, or other cause, or if he shall have abandoned and neglected to provide for his family, then,

(2.) By the mother ; if the mother be dead, or incompetent, or if she refuse, then,

(3.) By the guardian of such minor, duly appointed. If such minor have no parent living, or none competent to bind or apprentice him, or her, and there be no guardian, then,

(4.) By the governor of the island in which such minor shall reside. (Civil Code, Section 1397.)

3. No minor shall be bound as aforesaid, unless by a contract of two parts, signed and delivered by both parties ; and one part shall be kept for the use of the minor, by his father, mother, guardian, or the governor. (Civil Code, Sec. 1398.)

4. Every contract for the binding out of any minor as aforesaid, shall contain an agreement on the part of the person to whom such minor shall be bound, that he will cause such minor to be instructed to read and write, and if a male, will cause him to be further instructed in the general rules of arithmetic. (Civil Code, Section 1399.)

5. The age of every minor shall be inserted in the contract, and shall be taken to be the true age, without further proof thereof. (Civil Code, Section 1400.)

6. All considerations of money or other things, paid or

allowed by the master, upon any contract of apprenticeship, made in pursuance of the foregoing provisions of this chapter, shall be paid or secured to the sole use of the minor thereby bound. (Civil Code, Section 1401.)

7. Parents, guardians, and the governors of the respective islands, shall inquire into the treatment of minors bound by them respectively, and of all who shall have been bound by their predecessors in office, and defend them from all cruelty, neglect, misusage, or breach of contract, on the part of their master. (Civil Code, Section 1402.)

8. If any master shall be guilty of any cruelty, misusage, or violation of the terms of the contract, towards any minor so bound, a complaint may be made by the father, mother, guardian, governor, or minor, to any circuit judge or district justice, of the island in which said master shall reside, who shall have all the requisite powers for hearing and determining such complaint. (Civil Code, Section 1403.)

9. After a full hearing of the parties, or of the complainant, if the master shall neglect to appear after being duly notified, the magistrate, in case the complaint is sustained, may render a judgment that the minor be discharged from his apprenticeship, and for the costs of the suit against the master, and may issue execution accordingly. (Civil Code, Section 1404.)

10. If it shall appear that the complaint was made without any just or reasonable cause, the magistrate may award costs for the master against the complainant, and issue execution accordingly. (Civil Code, Section 1405.)

11. Every master shall moreover be liable, whether such complaint be filed or not, to an action on the contract, for the breach of any covenant, on his part, therein contained, and all damages recovered in such action shall be the property of the minor. (Civil Code, Section 1406.)

12. Such action may be brought either by the parent, guardian, or governor, or their successors in the trust of the minor, or by the minor himself after the expiration of the term of apprenticeship or service. (Civil Code, Section 1407.)

13. No such action shall be maintained unless it be commenced during the term of apprenticeship or service, or within

two years after the expiration thereof. (Civil Code, Sec. 1408.)

14. If judgment in such action, brought during the term of service or apprenticeship, shall be rendered in favor of the plaintiff, the magistrate may, upon motion of the plaintiff, discharge the minor from his apprenticeship or service. (Civil Code, Section 1409.)

15. If any apprentice or servant, bound as aforesaid, shall, without just cause, depart from the service of his master, any district or police justice of the kingdom, upon complaint made under oath by the master, or by any one on his behalf, may issue a warrant to apprehend the apprentice or servant and bring him before the said justice; and if the complaint shall be supported, the justice shall order the offender to be restored to his master, and he shall be compelled to serve double the time of his absence, unless he shall make satisfaction for the loss and injury sustained by such absence: provided, however, that such additional term of service shall not extend beyond one year, next after the end of the original term of service. (Civil Code, Section 1410.)

16. The justice's warrant, when directed to any officer or other person by name, shall authorize him to convey the offender to the place of residence of the master, although it may be on any other island in the kingdom. (Civil Code, Sec. 1411.)

17. All the costs incurred in any such process against a servant or apprentice, shall be paid, in the first instance, by the complainant, and if the complaint shall be supported, the master may recover the amount of such costs in an action against the minor, after he shall arrive at full age. (Civil Code, Section 1412.)

18. If any such apprentice or servant shall be guilty of any gross misbehavior, or refusal to do his duty, or willful neglect thereof, his master may make complaint thereof to any circuit judge, police or district justice, of the island in which said master shall reside, who shall have all the requisite powers for hearing and determining such complaint. (Civil Code, Section 1413.)

19. After a full hearing of the parties, or of the complainant alone, if the adverse party neglect to appear after being

duly notified, the magistrate, in case the complaint is sustained, may render a judgment that the master be discharged from the contract of apprenticeship or service, and for the costs of the suit; such costs to be recovered of the parent or guardian of the minor, if there be one, who executed the contract, and execution therefor may be issued accordingly; and if there be no parent or guardian liable for such costs, the amount thereof may be recovered in an action against the minor, after he shall have arrived at full age. (Civil Code, Section 1414.)

20. No contract of apprenticeship or service, made in pursuance of the foregoing provisions of this chapter, shall bind the minor after the death of his master, but the apprentice or servant shall be thenceforth discharged, and the minor may be bound out anew. (Civil Code, Section 1415.)

21. Any contract of apprenticeship or service, made in pursuance of the foregoing provisions of this chapter, on behalf of a minor, may be made either with a woman or a man, and all the foregoing provisions shall apply as well to mistresses as to masters. (Civil Code, Section 1416.)

22. Any person who has attained the age of twenty years, may bind himself or herself, by written contract, to serve another in any art, trade, profession or other employment, for any term not exceeding five years. (Civil Code, Section 1417.)

23. All engagements of service contracted in a foreign country, to be executed in this, unless the same be in contravention of the laws of this, shall be binding here: provided, however, that all such engagements made for a longer period than ten years, shall be reduced to that limit, to count from the day of the arrival of the person bound, in this kingdom. (Civil Code, Section 1418.)

24. If any person, lawfully bound to service, shall willfully absent himself from such service, without the leave of his master, any district or police justice of the kingdom, upon complaint made, under oath, by the master, or by any one on his behalf, may issue a warrant to apprehend such person and bring him before the said justice; and if the cemplaint shall be maintained, the justice shall order such offender to be restored to his master, and he shall be compelled to serve not to exceed double the time of his absence, in the discretion of the court,

unless he shall make satisfaction to the master for the loss and injury sustained by such absence : provided, always, that such additional term of service shall not extend beyond one year, next after the end of the original term of service. (Civil Code, Section 1419.)

25. If any such person shall refuse to serve according to the provisions of the last section, or the terms of his contract, his master may apply to any district or police justice, where he may reside, who shall be authorized by warrant, or otherwise, to send for the person so refusing, and if such refusal be persisted in, to commit such person to prison, there to remain, at hard labor, until he will consent to serve according to law. (Civil Code, Section 1420.)

And in case such person, so bound as aforesaid, shall have returned to the service of such master, in obedience to such order of such justice, and shall again willfully absent himself from such service without the leave of his master, such district or police justice shall be authorized to commit such person to prison, there to remain at hard labor, for any term not to exceed three months ; and at the expiration of such imprisonment, such justice shall order such offender to be restored to his master, to serve him for the remainder of such original term of service, and any penal term which may have been added thereto by such justice. (1860, p. 16.)

26. The justice's warrant or order, mentioned in section 24, when directed to any officer or other person by name, shall authorize him to convey the offender to the place of residence of the master, although it may be in some other island of the kingdom. (Civil Code, Section 1421.)

27. All the costs incurred in any process against a servant, under either the 24th or 25th sections, shall be paid in the first instance by the complainant, and if the complaint shall be sustained, the master shall have judgment and execution therefor against the offending servant. (Civil Code, Section 1422.)

28. If any master shall be guilty of any cruelty, misusage, or violation of any of the terms of the contract, towards any person bound to service either under the 22d or 23d sections, such person may make complaint to any police or district justice, who shall summon the parties before him, examine into,

hear and determine the complaint; and if the complaint shall be sustained, such person shall be discharged from all obligations of service, and the master shall be fined in a sum not less than five, nor more than one hundred dollars, and in default of the payment thereof, be imprisoned at hard labor until the same is paid. (Civil Code, Section 1423.)

29. No contract of service made in pursuance of the 22d or 23d sections of this chapter, shall bind the servant after the death of his master: provided, however, that where servants shall be so bound by any company of individuals, the death of any one partner, or the change of partners, in such company, shall not operate to release such servant from the terms of his contract. (Civil Code, Section 1424.)

30. Nothing in this chapter contained shall be construed to destroy the right of civil action for damages, by the master or servant, for breach of contract. (Civil Code, Section 1425.)

31. All contracts for service between masters and servants, where either of the contracting parties is of Hawaiian birth, shall be written and printed in both the Hawaiian and English languages. No such contracts shall have effect in law when executed in one language only. (1868, p. 40.)

32. The minister of the interior is hereby authorized to prepare, in both languages, printed forms of contract, as provided for in the foregoing section, in blank, as to place, time of service, wages, name, place where engaged, and place of residence.

CHAPTER LXXIX.

TO REGULATE THE BUREAU OF PUBLIC INSTRUCTION.

CONTENTS.

SECTION 1. Incumbent on all parents, etc., to send children to some lawful school.
2. Penalty against person responsible, for not enforcing child's regular attendance at school, in case child shall prove the offending party.
3. Teachers of all government schools to keep a correct register of names, sex, age, places of residence of scholars—certificate in writing by teacher, with consent of parents, or on application of school agent, for entering another school.
4. Penalty for permitting child to enter from another school, unless certificate of release be produced from teacher of school last attended.
5. Duties of children to parents within years of legal majority—penalty for disobedience.
6. Duty of board of education—regarding the census.
7. Board authorized to make all proper inquiries—penalty against persons for refusing to answer inquiries.
8. Duty of persons performing marriage ceremony—notice of births and deaths—by whom given—penalty for neglect.
9. Appointment and duties of agents to grant marriage licenses—fees—penalty for overcharge and bribery.

ATTENDANCE.

1. It shall be incumbent on all parents, guardians and adopters of children, to send such children, from their sixth to their fifteenth years, to some lawful school, public or private, to be instructed in good morals and elementary learning. (1864, p. 43.)

2. If any child shall persist in absenting himself from school, any police or district justice shall, upon proper complaint being made by the school teacher, the school agent, or the inspector general, cause the father or mother, or guardian or adoptive parent of the child, together with the child, to be arrested; and, upon its being proved that the person responsible for the child, as a minor, has not used proper diligence to enforce the child's regular attendance at school, the said responsible party

shall be fined by the said police or district justice in a sum not exceeding five dollars; and in default thereof, be subjected to imprisonment at hard labor for a term not to exceed fourteen days; and, in case the child shall prove the offending party, the police or district justice shall send him to a reformatory and industrial school, for a term not less than six months, nor more than two years, or otherwise sentence him to a fine not exceeding two dollars, or imprisonment at hard labor for a term not exceeding ten days. (1866, p. 7.)

3. The teachers of all government schools, for the education of native Hawaiian children, shall keep a correct register of the names, sex, age (as far as ascertainable), and the places of residence of the children attending their respective schools; and no teacher of any school, for the education of native Hawaiian children, shall grant a release from his or her school to any child under fifteen years of age, who may be registered as attending the same, for the purpose of entering another school, unless the consent and approval of the parent or guardian of such child, so requesting to be released, shall be made in writing, by such parent or guardian, or on application made by the school agent of the district, for good reason shown to his satisfaction. In every such case a certificate in writing shall be granted, setting forth the facts, and signed by the teacher. (1868, p. 53.)

4. No teacher shall receive into his or her school any child, under fifteen years of age, who may have attended another school, unless such child, his or her parent or guardian, produces to the teacher of the school, so sought to be entered, a certificate of release, signed by the teacher of the school last attended, as hereinbefore provided. And the teacher of any school who shall violate any of the requirements of this and the foregoing section, shall, on conviction before a police or district justice, be subject to a fine of five dollars for the first offense, and for a second offense, be liable to a fine of ten dollars, and removal from office at the discretion of the court.

GENERAL PROVISIONS OF THE PARENTAL AND FILIAL DUTIES.

5. It shall be the duty of all children within the years of legal majority, to obey all the lawful and moral commands of their parents, respecting first, as most obligatory, those of the

father, and next, those of the mother; and, if adopted, as by law allowed, the lawful and moral commands of the parents by adoption; and, in default of natural or adopted parents, the lawful and moral commands of the guardians appointed according to law; and, in case of continued, willful and obstinate disobedience on the part of a child, it shall be lawful for any police or district justice, upon complaint being made by any parent or guardian, to cause the said child to be arrested and brought before him; and should it appear to the said justice that such child is guilty of continued, willful and obstinate disobedience, he shall sentence the said child to imprisonment at hard labor, for a term not exceeding ten days: provided, however, that no child under ten years of age shall be amenable to the provisions of this section. (1864, p. 47.)

THE CENSUS.

6. It shall be the duty of the board of education, every sixth year, counting from the year 1860, to make a complete census of the inhabitants of the kingdom, to be laid before the King and legislature for their consideration; every census shall comprise, in distinct columns, the number of inhabitants in each district, the number of each sex, and such other particulars as the board of education may direct, and shall show the increase or decrease of the population.

7. To enable the board of education to carry into execution the design of the last preceding section, it is hereby authorized to make all proper and necessary inquiries; and all persons are required, under pain of a fine, not to exceed five dollars, to be imposed by any district or police justice, to answer, to the best of their knowledge, all such questions propounded by the agents of the board, relating to, or necessary for, the making of a complete census.

REGISTRY OF BIRTHS, DEATHS AND MARRIAGES.

8. It shall be the duty of every person, authorized according to law to perform the marriage ceremony, to report to the school agent of the district the names of all persons married by him; and it shall be incumbent upon the father, if living, of any child born in this kingdom, and if not living, or if the child be illegitimate, upon the mother, within one month after the birth of such child, to notify some registrar of births and

deaths in the district, of the name and sex and date of the birth of said child. It shall also be incumbent on any minister of the gospel, officiating at burials, any undertaker, or the nearest relative of legal age, of any deceased person, to notify some registrar of births and deaths, in his district, of the name and sex of the deceased, within one week after such decease. Any neglect to make such notification shall subject the delinquent, on conviction before any police or district justice, to a fine of one dollar, to go for the benefit of the registrar.

9. It shall be the duty of the minister of the interior, upon the nomination of the board of education, to appoint a suitable number of agents in the several districts of the kingdom, whose duty it shall be to grant marriage licenses, agreeably with the laws; which agents shall be entitled to the fee of twenty-five cents for each license, to be paid by the party applying therefor. Any such agent who shall charge more than that amount for any such license, or who shall receive a bribe for the same, shall be liable to a fine not exceeding fifty dollars, upon conviction before any police or district justice.

CHAPTER LXXX.

OF HIGHWAYS AND BRIDGES.

CONTENTS.

SECTION 1. Fine of road supervisor for fraudulently freeing persons from road labor.
2. Power to compel attendance and labor.
3. Disorderly or mutinous conduct of workmen—punishment.
4. Duties of persons liable to road tax—penalty.
5. Fines imposed—to whom paid, etc.
6. Penalty for driving excessive number of cattle, horses, etc., over bridges.
7. Fine for riding or driving faster than a walk over bridges.
8. Liability for damage to any bridge.
9–10–11–12. Laws of the road.
13. Penalty for violating laws of the road—action for damages to be commenced within six months after injury.

1. Any road supervisor who shall fraudulently free any person from road labor, not exempted by law, or who shall not cause the persons liable to the road tax to work the full number of days and hours prescribed by law, shall on conviction thereof, before any district justice, be fined five dollars for each such offense ; and all such fines shall be expended as part of the road tax of such district.

2. The road supervisor shall have power to compel the attendance and labor of the people liable to road tax, to labor on the road anywhere within the district in which they reside, provided he shall remit one day's work for every five miles travelled by the people from their places of abode, section 1 of this chapter notwithstanding. (1862, p. 9.)

3. The road supervisors, in case of refusal to work, or disorderly or mutinous conduct, on the part of any workman, shall have the power to authorize and require any constable to apprehend the offender, and take him before any district justice, who shall, unless good cause be shown to the contrary, sentence such offender to a fine not exceeding five dollars, or imprisonment at hard labor not more than five days.

4. It shall be the duty of every man liable to the road tax to appear punctually at the time appointed for work, with suitable implements, and to work diligently as directed by the supervisor, otherwise he shall be subject to a fine not exceeding five dollars.

5. All fines imposed and paid under sections 3 and 4 of this chapter shall be paid over by the several district justices to the road supervisor of the district, and shall be expended by him as part of the road tax of such district. (1862, p. 9.)

6. No cattle, horses, mules, or asses, exceeding ten in number, shall be driven over any bridge of wood or iron in this kingdom, of ten feet span or more, under the penalty of a fine of not less than one dollar, nor more than ten dollars, recoverable against the driver or drivers of the same, by prosecution before any police or district justice: provided, always, that in cases where no other passage is possible, the police or district justice before whom such prosecution is had shall remit the fine. (1868, p. 24.)

7. No cart, wagon, dray, or carriage, drawn by oxen, horses, or mules, and no rider of any horse or mule shall pass over any wooden or iron bridge in this kingdom, of ten feet span or more, at a pace faster than a walk, under a penalty of five dollars, recoverable against the driver of such cart, wagon, dray or carriage, or rider of such horse or mule, before any police or district justice.

8. In the event that any damage is done to any bridge within this kingdom, by reason of a violation of any of the provisions of this act, the owner or owners, driver or drivers, rider or riders, of such cattle, horses, mules, asses, carts, wagons, drays, or carriages, shall be liable in damages by suit, at the instance of the road supervisor of the district, recoverable before any police or district justice.

THE LAW OF THE ROAD.

9. Whenever any persons shall meet each other on any bridge, road, or other highway, travelling with carriages, wagons, carts, or other vehicles, each person so meeting, shall seasonably turn his horse, or other animal, or drive his carriage, or other vehicle, to the right of the middle of the travelled part of such

road or bridge, when practicable ; so that the respective carriages, or other vehicles aforesaid, may pass each other without interference. (Civil Code, Section 373.)

10 When it is difficult or unsafe for persons travelling with any of the aforesaid carriages, or other vehicles, on account of their being heavily laden or otherwise, to turn or drive their carraiges, or other vehicles, to the right of the middle of such travelled part, as aforesaid, any person thus prevented, when meeting with any other person travelling with any of the carriages, or vehicles aforesaid, shall stop a reasonable time at a convenient part of the road, to enable such other person to pass by. (Civil Code, Section 374.)

11. Whenever any person travelling with any carriage or vehicle as aforesaid, on any bridge, or road, shall overtake any other person with any such carriage or vehicle, either stationary at some inconvenient place for passing by, or travelling at a slower rate, and shall request such other person to permit him to pass, it shall be the duty of the person so overtaken, to turn or drive his carriage, or vehicle, to the right or left of the middle of the travelled part of said bridge or road, or to stop a reasonable time in some convenient place, for the other person to pass by. (Civil Code, Section 375.)

12. No person shall permit his carriage or vehicle to travel or pass, on any such bridge or road, without a suitable driver or conductor ; nor shall leave the same on any such bridge or road stationary, in such a situation as to obstruct other persons, travelling with any carriage or other vehicle. (Civil Code, Section 376.)

13. Every person violating either of the foregoing provisions of the law of the road, shall be fined, for each offense, not less than one, nor more than twenty-five dollars. And any person injured by any violation of the provisions aforesaid, shall be entitled to recover damages, in an action to be commenced within six months after such injury. (Civil Code, Sec. 377.)

CHAPTER LXXXI.

TO DESIGNATE A PLACE FOR LANDING AND DRIVING CATTLE IN HONOLULU.

CONTENTS.

SECTION 1. Designation of landing places for cattle in the harbor of Honolulu.
2. Minister of the interior authorized to purchase suitable location.
3. Penalty for landing cattle at other places than those designated.
4. Penalty for driving cattle through streets of Honolulu.
5. Cattle may be driven at certain times and under certain regulations.

1. That the minister of the interior may designate a wharf or other landing place, with sufficient depth of water to accommodate coasting vessels, at which all cattle brought into the harbor of Honolulu in coasting vessels shall be landed, and the wharf or other place so set apart shall be published, for at least three months, in the Hawaiian and English languages, in two newspapers published in Honolulu. (1868, p. 38.)

2. The minister of the interior is hereby authorized to purchase for the Hawaiian government, and pay for the same out of the proceeds of sales of real estate, a suitable location for a wharf and road, to which all cattle brought into the harbor of Honolulu in coasting vessels shall be landed, and he shall establish reasonable charges for the use of such landing place.

3. Any person landing cattle from a coasting vessel at any wharf or other place in the harbor of Honolulu, other than that named and published by the minister of the interior, as provided in the first section of this chapter, shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense; and the vessel from which cattle may be so landed shall be liable for the amount of the fine and costs.

TO PREVENT THE DRIVING OF CATTLE THROUGH THE CITY OF HONOLULU WITHIN CERTAIN HOURS.

4. That all driving of cattle through or over the streets of the city of Honolulu, and the leading thoroughfares within one-

quarter of a mile thereof, from the intersection of King and Nuuanu streets, or upon any part of Nuuanu street, within one mile of such intersection, is hereby strictly prohibited, unless such cattle shall be sufficiently bound and controlled so as effectually to prevent all damage to the public, under a penalty of ten dollars for every head of such cattle so driven; the same to be recovered before the police justice of Honolulu. (1868, p. 52.)

5. This chapter shall not be construed to prohibit the driving of cattle between the hours of eleven o'clock in the evening and eight o'clock in the morning, through such streets, and under such regulations as may be prescribed, from time to time, by the minister of the interior.

CHAPTER LXXXII.

OF PRISONS, JAILS AND HOUSES OF CORRECTION.

CONTENTS.

SECTION 1. Penalty for furnishing intoxicating liquors, etc., to prisoners.
2. Persons permitted to visit any prison.
3. Penalty for any but officials visiting, and also for delivery or receiving of letters, messages, etc., without permission.

1. No wine, or intoxicating liquor, or any article prohibited by the prison rules, shall be used by any prisoner; and any person who shall furnish any such drink to any prisoner, unless the same be prescribed by a physician as a medicine; or who shall furnish any other prohibited article contrary to the provisions of the prison rules, shall be fined not exceeding two hundred dollars, or imprisoned at hard labor not exceeding two years, in the discretion of the court; and if an officer, in addition thereto, be dismissed; and any police, or district justice, shall have jurisdiction of any case arising under this section. (Civil Code, Section 214.)

2. The King, his ministers, the governors, the judges of the supreme and circuit courts, members of the legislature, of the board of education, and the diplomatic and consular agents of foreign nations, shall be allowed at suitable hours, freely to visit any prison. (Civil Code, Section 218.)

3. None but official visitors named in the last preceding section, shall be allowed to visit any prison, or to have any verbal or written communication with the prisoners, unless with permission of the marshal or the keeper of the prison: nor shall any visitor whatever deliver or receive from any of the prisoners, any letter or message, or supply any of them with any articles of any kind, except with the permission of and through the marshal, or keeper of the prison, under a penalty of not less than five nor more than two hundred dollars. (Civil Code, Section 219.)

CHAPTER LXXXIII.

TRESPASS OF ANIMALS—BRANDS AND MARKS.

CONTENTS.

SECTION 1. Setting the confined animal of another at liberty—penalty.
2. Obliteration of brands or marks—penalty.

1. If any person shall set the confined animal of another at liberty, in order that it may trespass on any cultivated ground, or shall by any means designedly decoy any animal to commit a trespass, he shall, for every such offense, forfeit and pay for the benefit of the public treasury, the sum of one hundred dollars, or be imprisoned at hard labor not less than six months, nor more than two years. (Civil Code, Section 246.)

2. Any person who shall obliterate any brand or mark, on any animal, by placing another brand or mark over the same, or otherwise, although without a felonious intent, shall be subject to a fine not exceeding twenty dollars, in the discretion of the court, for every brand or mark so obliterated. (Civil Code, Section 249.)

CHAPTER LXXXIV.

FISHERIES.

CONTENTS.

SECTION 1. Fishing grounds granted to the people—protection of such grounds.
2. Penalty for violation of tabus.
3. Penalty for taking fish out of the kingdom for sale or otherwise.
4. Penalty for violation of konohikis' fishing rights—punishment of konohikis for depriving others of their fishing rights.

1. All fishing grounds appertaining to any government land, or otherwise belonging to the government, excepting only ponds, shall be, and are hereby forever granted to the people, for the free and equal use of all persons: provided, however, that, for the protection of such fishing grounds, the minister of the interior may tabu the taking of fish thereon, at certain seasons of the year. (Civil Code, Section 384.)

2. The minister of the interior shall give public notice of any such tabu imposed by him; and no such tabu shall be in force until such notice has been given. Every person who shall violate such tabu shall be punished by a fine not exceeding fifteen dollars, and the value of the fish taken. (Civil Code, Section 385.)

3. No person residing without the kingdom shall take any fish within the harbors, streams, reefs, or other waters of the same, for the purpose of carrying them for sale, or otherwise, to any place without the kingdom, under penalty of a fine not exceeding two hundred dollars, in the discretion of the court. (Civil Code, Section 386.)

4. Every konohiki or other person who shall willfully deprive another of any of his legal rights to fish on any fishing ground, which now is, or may become, free to the use of the people, or who shall willfully exact from another any portion of the fish caught on any public fishing ground, or who shall willfully ex-

act of another, for the use of any private fishery, a greater amount of fish than by law he is entitled to receive as his share, and any tenant or other person who shall willfully deprive any konohiki of his fishing rights, by appropriating to himself the tabued fish of said konohiki, or otherwise, shall be punished by a fine not exceeding one hundred dollars for every such offense, in the discretion of the court, and in default of the payment of such fine, be imprisoned at hard labor not exceeding three months. (Civil Code, Section 395.)

CHAPTER LXXXV.

FOR THE PROTECTION OF KOLEA, OR PLOVER, AND OTHER USEFUL BIRDS AND GAME.

CONTENTS.

SECTION 1. Penalty for destroying certain specified birds within certain months.
2. Penalty for selling or offering for sale such birds.
3. Penalty for destroying insectivorous birds brought from foreign countries.
4. Penalty for offering same for sale.
5. In what manner fines collected for above offenses shall be disposed of.
6. As to destruction of birds already imported, etc.
7. Penalty for destroying birds or animals feræ naturæ, introduced within five years.
8. Birds or animals proved to be common nuisances.

WHEREAS, great damage is caused yearly in the Hawaiian kingdom, during the rainy season, by the ravages of caterpillars, cutworms, and other destructive grubs, to the various growing crops, such as wheat, corn and tobacco, and to the pasturage;

AND, WHEREAS, by a bountiful dispensation of Providence, the birds known here as the kolea, or plover, and the akekeke, or lesser pied plover, and the kukuluaeo, or long-legged plover, annually migrate to this kingdom during the winter months, and destroy vast numbers of the said destructive larvæ by feeding on them;

AND, WHEREAS, insectivorous birds have been brought from foreign countries, with a view to their being propagated here; therefore, (1859, Civil Code, p. 436.)

1. Any person who shall, from the first day of August to the last day of December inclusive of each year, and from the first day of January to the last day of February inclusive of each year, kill or destroy by shooting, snaring, or otherwise, any one of the above specified birds, shall, on conviction thereof before any police magistrate or district justice, be fined in the penal

sum of one dollar for each offense, to remain in custody until such fine be paid. (1860, p. 17.)

2. Any person who shall, from the first day of August to the last day of December inclusive of each year, and from the first day of January to the last day of February inclusive of each year, sell, or offer for sale, any one of the before named birds, shall, upon conviction thereof before any police magistrate, or district justice, be fined in the penal sum of one dollar for each offense, to remain in custody until such fine be paid.

3. Any person who shall shoot, snare, or otherwise destroy any insectivorous bird brought from foreign countries for the purpose of propagating their species within this kingdom, shall, on conviction before any police or district justice, be fined in the sum of ten dollars for each offense, and in default of payment be imprisoned until such fine is paid.

4. Whoever shall sell, or offer for sale at any time, any one of the birds mentioned in section 3, shall, on conviction before any police or district justice, be fined in the sum of ten dollars, and in default of payment, be imprisoned until such fine is paid.

5. All fines for the above offenses which may be collected under this act by any police magistrate or district justice, shall be paid quarterly into the Royal Hawaiian Treasury, and specified as "Fines collected under the chapter for the protection of plover and other useful birds," and that all such sums shall be paid by the treasurer of the Hawaiian Kingdom, one-half to the Royal Hawaiian Agricultural Society, and one-half to the Royal Hawaiian Native Agricultural Society, for the use and benefit of such societies respectively.

6. Nothing in this chapter shall be construed as authorizing the killing, destroying, or ensnaring of any birds already imported, or that may hereafter be imported, for the purposes set forth in the above mentioned chapter. (1860, p. 17.)

7. No person shall shoot or destroy any birds or animals feræ naturæ, which shall have been introduced into this kingdom within five years, under a penalty of not more than twenty dollars for each offense. (1868, p. 39.)

8. Nothing in this chapter shall be construed to prohibit the destruction of such birds or animals as shall be proved to be common nuisances.

CHAPTER LXXXVI.

REGARDING THE QUALIFICATIONS OF ELECTORS.

CONTENTS.

SECTION 1. Qualifications necessary for an elector—persons not allowed to vote.
2. Assessors of taxes to make a record of persons qualified to vote.
3. Tax collectors to make out lists of persons who have paid their taxes.
4. Tax collectors to make returns to inspectors of election of all persons who have paid their taxes.
5–6. Duties of inspectors of election.
7. Penalty for failure or neglect of assessors or collectors to make the proper register, as also for making false entries.
8. Penalty for failure or neglect of collectors to make the proper returns to inspectors of election.
9. Tax receipts of voters—how impressed.
10. Regarding the omission of any person's name from tax collector's list—duties of inspectors therein.
11. Inspectors not responsible for omission, etc.
12. Duties of inspectors on day of election.
13. Penalty for giving false name or answer to inspectors.
14. Construction of term "infamous crime."
15. Production of certificate of the King's pardon.
16. Difference of opinion between the inspectors.
17. Polls—when opened and closed, and how to be conducted.
18. Penalty for improper conduct of any inspector.
19–20. Challenge to voter—oath.
21. Rejection of vote.
22. If challenge be not withdrawn, form of oath to be tendered to voter.
23. Vote rejected, if oath be refused.
24. Voting more than once—penalty.
25. Penalty for voting by persons disqualified.
26. Penalty for giving in more than one ballot.
27. Penalty for aiding or abetting in either of the above offenses.
28. Penalty for bribery or using any undue influence to any elector.
29. Duty of inspectors before the opening of the polls.
30. Penalty for fraud or unfair dealing by inspector at an election.
31. Penalty for willful neglect or refusal by any inspector to perform his duties.
32. Penalty for disorderly conduct at an election, creating disturbance, etc.
33. No civil process to be served on day of election.

1. Every male subject of the kingdom who shall have paid his taxes, who shall have attained the age of twenty years, and shall have been domiciled in the kingdom for one year immediately preceding the election, and shall be possessed of real property in this kingdom to the value, over and above all incumbrances, of one hundred and fifty dollars, or of leasehold property, on which the rent is twenty-five dollars per year, or of an income of not less than seventy-five dollars per year, derived from any property, or some lawful employment, and shall know how to read and write, if born since the year 1840, and shall have caused his name to be entered on the list of voters of his district, as hereinafter provided, shall be entitled to one vote for representative or representatives of that district; provided, however, that no insane or idiotic person, or any person who shall have been convicted of any infamous crime within this kingdom, unless he shall have been pardoned by the King, and by the terms of such pardon have been restored to all the rights of a subject, shall be allowed to vote; and no other persons than those qualified as in this section provided shall be allowed to vote at any election for representatives to the legislative assembly of this kingdom. (1868, p. 14.)

2. The assessors of taxes in the several districts, shall carefully record upon their several assessment registers, in separate columns, to be provided for that purpose, according to the form immediately following this section, the names of all persons possessing the requisite qualifications for voters, as provided by section 1 of this chapter; and if there shall be any persons in their respective districts who shall be possessed of the requisite qualifications to justify their voting, as provided by the sixty-second article of the constitution, and yet may be disqualified by any constitutional reason, they shall note the same carefully against such name on their said lists in the columns set apart for remarks.

QUALIFICATION OF VOTERS.

Real property of $150 clear value.	Leasehold property for which $25 per annum rental is paid.	Income of not less than $75 per annum derived from any property or some lawful employment.	Remarks.

3. For the purposes of such elections, every tax collector shall make out an accurate list of the names of all the persons

in his district, who shall have paid their taxes for the year immediately preceding an election, within the time prescribed by law, and who shall have been entered by the assessor upon the assessment register as possessing the requisite qualifications to vote, together with the names of all persons who shall have paid in to him their taxes within the time prescribed by law, who may possess the requisite qualifications to vote, but who may have been omitted to be entered by the assessor on the assessment register, as provided in section 2, of this chapter; and in every such case the tax collector shall enter upon the proper column of the assessment register, in his possession, the nature of the qualification of the party so omitted to be entered by the assessor, and who shall thereupon become entitled to vote at such election.

4. Every tax collector shall, on or before the last day of December of the year immediately preceding that in which an election for representatives shall be held, make out and return to the inspectors of election of the district an accurate list of all the persons in the district who shall have paid their taxes within the time prescribed by law, whose names may appear upon the assessor's assessment register, as extended and corrected by the tax collector, according to the provisions of section 3, of this chapter, as possessing the requisite qualifications for voters.

5. The inspectors of election, viz.: the police or district justice, the tax collector and the tax assessor, or, in their absence, agents appointed by them, shall, at least fifteen days before the day of holding any election for representatives, excepting such as may be ordered pursuant to the provisions of section 797 of the civil code, make out and cause copies to be posted at the place where the election is to be held, and at least two other public places in the district, correct alphabetical lists of all the persons in the district who may be qualified to vote, and whose names may appear upon the list returned to the inspectors of election by the tax collector of the district, as in the last preceding section required.

6. The inspectors of election aforesaid, shall hold at least two sessions, of reasonable and sufficient length, at some convenient place in the district, not less than ten nor more than twenty

days next preceding the day of holding an election for representatives, for the purpose of receiving evidence of the qualifications of persons who may not have been previously registered by the assessor or collector on the assessment register, as provided in sections 2 and 3 of this chapter, and who may claim a right to vote ; and also for the purpose of correcting, when necessary, the alphabetical lists of voters provided for in section 5 of this chapter. Notice of the time and place of holding such sessions, respectively, shall be given by the inspectors of election upon the alphabetical lists posted, as provided in section 5 of this chapter ; and at such sessions any one offering testimony against the right of any person to vote, whose name may appear on the aforesaid alphabetical lists, shall be reasonably heard ; and if the inspectors aforesaid shall be satisfied, on such hearing, that the name of such person should not have been placed on the register, they shall at once erase the same therefrom.

7. Any assessor or collector who shall fail or neglect to make such a register as in sections 2 and 3 of this chapter provided, shall forfeit and pay for every such failure or neglect the sum of one hundred dollars ; and every assessor or collector who shall make any false entry in respect to any point of the said register, shall forfeit and pay for every such false entry the sum of ten dollars.

8. Every collector who shall fail or neglect to return to the inspectors of election of his district an accurate list, as provided in section 4 of this chapter, of all the persons in the district who may have paid their taxes within the time prescribed by law, and whose names may appear upon the assessor's assessment register, shall forfeit and pay for every such failure or neglect the sum of one hundred dollars.

9. For the purposes of elections, every tax collector shall be supplied by the minister of finance with a form of blank tax receipt, similar to those now in use, or any which may be hereafter in use, but which shall bear conspicuously upon it in printed letters, the words "Qualified to vote;" and it shall be the duty of every tax collector, upon receiving the payment of the taxes due from any person, in other respects entitled to the franchise, under the provisions of section 1 of this chapter, to

fill out and deliver to every such person one of the tax receipts so impressed.

10. If at any meeting of the inspectors of election for the qualification of voters, as provided in section 6 of this chapter, it shall be shown that any person whose name may have been omitted from the list returned by the tax collector to the inspectors of election, as provided in section 4 of this chapter, possesses the requisite and legal qualifications of a voter, and shall have requested the inspectors of election to insert his name on the list of voters returned to them by the tax collector, as provided in section 4 of this chapter, the inspectors of election shall require the tax collector to fill out and deliver to the person so qualified by the inspectors a tax receipt of the description required to be used for electors, as provided in section 9 of this chapter; the person so qualified being required to return to the tax collector to be cancelled the tax receipt of the ordinary form first issued to him in exchange for the one to be given to him, bearing the impress of the words "Qualified to vote."

11. The inspectors of election in case they shall have duly entered on the alphabetical list of voters, provided for in section 5 of this chapter, the names of all persons who may have been returned to them by the collectors aforesaid, as provided in section 4 of this chapter, shall not be held answerable or responsible for any omission in said list.

12. The inspectors of the election aforesaid shall, upon the day of election for representatives, receive the votes of all persons whose names may be borne on the list of voters, and who shall produce to the inspectors of election, at the polls, on such election day, a tax receipt bearing upon it in printed letters, the words "Qualified to vote," which tax receipt the inspectors aforesaid shall return to the owner thereof, after having received his vote and recorded his name on the list of persons who shall have voted; and, in each and every case, it shall be the duty of the inspectors of election aforesaid, to cancel or deface the words "Qualified to vote," before returning to any voter his tax receipt so impressed; and the said inspectors of election shall not be held answerable or responsible for refusing the vote of any person whose name may not be borne upon the

list of voters, and who does not produce to the inspectors of election, a tax receipt, properly filled and signed by the tax collector, upon which shall be impressed in printed letters the words "Qualified to vote."

13. If any person shall give a false name, or any false answer, to the inspectors of election aforesaid, when in session, as provided in section 6 of this chapter, he shall forfeit and pay the sum of fifteen dollars for each offense.

14. For the purposes of this chapter, the term "infamous crime," as expressed in section 1 of this chapter, shall be construed to include murder in either degree, sodomy, arson, perjury, forgery, subornation of perjury, theft, bribery, embezzlement, or other high crime or misdemeanor, for which the pardon of the King is necessary to restore a subject to his civil rights.

15. Any person who shall have been convicted of an infamous crime, and who shall have been pardoned by the King, and shall, by the terms of his pardon, have been restored to all the rights of a subject, shall, before being qualified to vote, be required to produce to the assessor, the collector, or the inspectors of election, as the case may be, a certificate of such pardon, or a duly certified copy thereof.

16. In all cases where a difference of opinion may arise between the inspectors of election, upon any subject connected with their duties as inspectors of election, the ruling of a majority of them shall be considered binding and conclusive.

17. The polls shall be opened by the inspectors of election, and proclamation thereof made at eight o'clock in the morning of the day of election, and shall be kept open till five o'clock in the afternoon, and no longer. The electors shall vote by ballot, and each elector offering to vote shall deliver his ballot to one of the inspectors, who, on receiving such ballot, shall cause the clerk of the election to record the name of the person delivering the same, and shall, without inspecting the name of the person voted for, examine said ballot so far only as to determine whether the same contains more than one ticket, if it do not, he shall place it in the ballot box, but if it do, he shall make it manifest, and reject the same: provided, always, that it shall be the privilege of any elector voting at such elec-

tions, to enclose his ballot in a sealed envelope, before delivering the same to the inspectors of election, as hereinbefore provided, the same being subject to the provisions of sections 794, 795 and 807 of the civil code. The ballots, after having been placed in the ballot box, shall not be removed from such box until the same are taken out to be sorted and counted by the inspectors. (1868, p. 28.)

18. Each and every member of any board of inspectors of election, required by law to hold and preside at an election for a representative or representatives to the legislative assembly of the kingdom, who shall refuse or fail to open the poll at such election, at the hour of eight o'clock in the morning of the day fixed for such election, or who shall participate in, or be accessory to, such refusal or failure ; or who shall close the poll at any such election before five o'clock in the afternoon of such election day, or who shall participate in, or be accessory to, such closing of such poll, shall forfeit and pay for every such offense a fine not to exceed five hundred dollars, to be recovered by the attorney general, on an order to that effect from the legislative assembly next following such election. And all other penalties provided for in this chapter shall be recoverable before the several police or district justices of the several districts where the offense may have been committed ; and all persons informing of any violation of this law, cognizable before a police or district justice, shall be entitled to one-quarter of the amount of the fine recovered from the convicted offender. (1868, p. 28.)

PROVISIONS TO PRESERVE THE PURITY OF ELECTIONS.

19. It shall be the duty of each inspector of any election to challenge any person offering to vote, whom he shall know or suspect not to be duly qualified as an elector. (Civil Code, Section 800.)

20. If any person offering to vote shall be challenged as unqualified, by an inspector or by any other person, the board of inspectors shall read to the person so challenged, the qualifications of an elector as contained in section 1 of this chapter, and shall tender to him the following oath :

You do swear that you will fully and truly answer all such questions as shall be put to you, touching your place of residence, and qualifications as an elector at this election.

The inspectors of election, or one of them, shall then put such questions to the person challenged, as may be necessary to test his qualifications as an elector at that election. (Civil Code, Section 801.)

21. If the person challenged shall refuse to answer fully any questions which may be put to him as aforesaid, the inspectors shall reject his vote. (Civil Code, Section 802.)

22. If the challenge be not withdrawn, after the person offering to vote shall have answered the questions put to him as aforesaid, one of the inspectors shall tender to him the following oath: (Civil Code, Section 803.)

You do solemnly swear that you are a subject or denizen of this kingdom (as the case may be), of the age of twenty years; that you have resided in this kingdom for the last year immediately preceding this election; and in this district for the last three months immediately preceding this election; and that you have not voted at this election; and that you have never been convicted of any infamous crime within this kingdom which has not been fully pardoned.

23. If any person shall refuse to take the oath tendered, as prescribed in the last preceding section, his vote shall be rejected. (Civil Code, Section 804.)

24. Any person who shall vote more than once at the same election, shall, on conviction thereof, be fined not exceeding fifty dollars, or imprisoned at hard labor not more than six months, in the discretion of the court. (Civil Code, Sec. 805.)

25. Any person who shall vote, being disqualified by law, by reason of his conviction of some infamous crime, which shall not have been pardoned, with the restoration to all the rights of a subject, or by reason of non-age, non-residence, or other cause, knowing of his disqualification, shall, on conviction thereof, be fined not exceeding fifty dollars, or imprisoned at hard labor not exceeding six months, in the discretion of the court. (Civil Code, Section 806.)

26. If any elector shall, knowingly, give in more than one ballot at any election, he shall be fined not exceeding fifty dollars, or be imprisoned at hard labor not exceeding six months, in the discretion of the court. (Civil Code, Section 807.)

27. If any person shall willfully aid or abet any one, in the commission of either of the offenses specified in the last three preceding sections, he shall be fined not exceeding fifty dollars, or imprisoned at hard labor not exceeding six months, in the discretion of the court. (Civil Code, Section 808.)

28. Any person who shall, by bribing another with money, promise of reward, or otherwise, attempt to influence any elector in giving his ballot; or who shall use any threat to procure any elector to vote contrary to the inclination of such elector, or to deter him from giving his ballot, shall; on conviction thereof, be fined not exceeding fifty dollars, or imprisoned at hard labor not exceeding six months, in the discretion of the court. (Civil Code, Section 809.)

29. It shall be the duty of the inspectors of election, or one of them, immediately before proclamation is made of the opening of the polls, to open the ballot box, in the presence of the people there assembled, and turn it upside down, so as to empty it of everything that may be in it, and then lock it; and it shall not be re-opened, until the close of the polls, for the purpose of counting the ballots therein. (Civil Code, Sec. 810.)

30. Any inspector of an election who shall, after the opening of the polls, put a ballot into the ballot box, except his own ballot, or such as he may have received in the regular discharge of his duty; or who shall be guilty of any other fraud or unfair dealing at such election, shall be fined not exceeding one hundred dollars, and disqualified from holding any office under the government. (Civil Code, Section 811.)

31. Any inspector of election, who shall willfully neglect, or refuse, to perform any of the duties required of him, respecting elections, shall be fined not exceeding one hundred dollars, and be disqualified from holding any office under the government. (Civil Code, Section 812.)

32. Any person who shall be disorderly or create any disturbance at any election, or who shall break up, or prevent, the lawful holding of any election, or obstruct, or attempt to obstruct the same, may be arrested without warrant, and shall be fined not exceeding one hundred dollars, or imprisoned at hard labor, not exceeding six months, in the discretion of the court. (Civil Code, Section 813.)

33. No civil process shall be served in any district, on any person entitled to vote therein, on the day of election for representatives. (Civil Code, Section 814.)

CHAPTER LXXXVII.

THE ASSESSMENT AND COLLECTION OF TAXES.

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SECTION 1–2–3. Appointment of assessors, and their duties.
4. Duties of owners, lessees, or other occupants of any land to furnish assessors with lists of taxable animals pastured on the same —penalty for making a false return of any property.
5. Oath to be administered to persons furnishing lists of property liable to taxation—penalty for refusal to take the oath.
6. Penalty for refusing assistance to any collector by officer of police.

1. Two assessors shall be appointed for the year 1860, and every fifth year thereafter, for each taxation district of the kingdom; and for each intermediate year, one assessor shall be appointed for each taxation district. (1860, p. 18.)

2. The minister of finance, with the approval of the King, shall appoint annually, on or before the first day of July, assessors, as provided in section 1 of this chapter, whose duty it shall be, under the direction of said minister, to make, on or before the first day of September, a faithful assessment of all the taxes imposed by law within their respective districts, and to furnish an accurate list of the same, according to blank forms furnished by said minister, which shall exhibit the names of all persons assessed, and the different items of taxation charged against them.

In case of non-residents, the list shall state the residence of tax payers, if their residence is known, otherwise such residence must be described as unknown.

3. It shall be the duty of the assessor or assessors of each district to call at the usual place of residence or business of every tax payer within such district, for the purpose of ascertaining the amount of taxes each person is liable to pay; or to give public notice, by written or printed advertisement, to the inhabitants of the different settlements or convenient points thereof, to meet him or them at a specified time and place within such settlements or points for that object; and if any

person, when so called upon, or notified, shall decline or refuse to give a list of the persons residing with him liable to taxation, or of his or their animals, liable to specific taxes, or of any property belonging to him or them subject to assessment, or shall decline to make oath to the accuracy of the list of persons, animals, and other property he is required to furnish, the said assessor or assessors may make such list, according to the best information within his or their reach, and the same shall be binding upon all persons interested. (1860, p. 18.)

4. It shall be the duty of the owner, lessee or other occupant of any land, to furnish to the assessor or assessors a list of all the names of the owners of any horses, mules, asses, and all other taxable animals that may be pastured on his land, as well as of the number of animals so pastured with the knowledge and consent of the owner, lessee, or other occupant of the land; and, in default of such return, the animals so pastured shall be considered as the property of, or as being in possession of the owner, lessee, or other occupant of the land for the purpose of taxation; and, if the owner, lessee, or other occupant of any land shall neglect to give the list of names and animals as hereinbefore provided, or to include the same in his own return, he shall be subject to the pains and penalties prescribed in section 5. Any person making a false return of his or her property, as in this and the preceding section provided, may be assessed in double the amount of taxes that would have been assessed on the property so attempted to be concealed. (1864, p. 10.)

5. Such assessor or assessors may, in his or their discretion, or in the discretion of either of them, administer the following oath to any person who shall give him a list of persons, animals, or property of any description liable to taxation, as prescribed by law:

You do solemnly swear that the list of persons residing with you, and of animals, and other property in your possession, or owned by you, liable to taxation, which you have given is true: So help you God.

Any person refusing to take the oath aforesaid shall be fined not exceeding fifty dollars, or imprisoned not exceeding thirty days, in the discretion of the court, on conviction of such refusal, before any police or district justice. (Civil Code, Section 493. Amended, 1860, p. 18.)

6. Any collector, when resisted or impeded in the exercise of his office, may require any constable, or other officer of police, to aid him in discharge of his duties; and if any such officer shall refuse to render such aid, he shall be subject to a fine not exceeding ten dollars, and to removal from office. (Civil Code, Section 505.)

CHAPTER LXXXVIII.

TO REGULATE THE SALE OF DEADLY POISONS.

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2. Vendors of poisons to keep a record of their sales.
3. Box, vial or package to be labelled.
4. Prescriptions containing poison to be entered upon the books of every licensed physician, druggist, etc., subject to inspection of the minister of the interior.
5. Penalty for violation of above provisions.

1. No person shall sell or deliver any deadly poison, except for scientific, medicinal, or mechanical purposes, nor to any person not known to the vendor to be careful and well disposed: provided, that sales may be made to a person not known to the vendor, if some responsible person known to the vendor will certify, in writing, that the person desiring to purchase may safely be intrusted with the same; but in all cases the vendor shall require the purchaser to disclose the intended use of such poison. (1868, p. 25.)

2. Every person who shall sell or deliver any deadly poison, shall keep a book in which shall be recorded the name and quantity of the poison sold or delivered, the person to whom it was sold or delivered, and whether such person was known to the vendor, and if not, the name of the responsible person upon whose recommendation the same was sold; and the certificate of such person shall be preserved. The said book of records shall at all times be open to the inspection of the minister of the interior or his agent.

3. The box, phial, or other package in which any deadly poisons shall be sold or delivered, shall bear a label containing the word "Poison," in large letters, both in the English and Hawaiian languages, together with some emblematic device, to be approved by the minister of the interior, which shall indicate the dangerous character of the article.

4. Every licensed physician, druggist, or apothecary, who shall compound, sell, or deliver any prescription containing any poisonous drug, or substance deleterious to human life, to be used as medicine, shall enter upon his books said prescription written out in full, with the date thereof, with his own name appended thereto, or the name of the physician who prescribed the same, and the person to whom the same was delivered; and no such prescription shall be compounded, sold or delivered, unless the name of the person compounding, selling, or delivering the same, or the name of the physician prescribing the same, be appended to the prescription in full, and every such prescription shall be preserved; and said books and prescriptions shall be subject at all times to the inspection of the minister of the interior or his agent.

5. Any person violating the provisions of this chapter shall forfeit a sum not exceeding one thousand dollars for each offense.

CHAPTER LXXXIX.

FOR THE PROTECTION OF LIFE AND PROPERTY AGAINST EXPLOSIVE SUBSTANCES OTHER THAN GUNPOWDER.

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6. Duties of marshal, deputies and sheriffs in regard to explosive substances, landed, stored, etc., in violation of law—acts of said officers not to relieve any person from penalty incurred.
7. Duties of officers of fire department, and officers of police to see present law enforced, and to make complaints of violation thereof.
8. Penalty for violation.
9. Minister of the interior empowered to make rules and regulations deemed advisable for protection of life and property, regarding explosive substances.

1. No person shall receive, keep or store, or cause to be received, kept or stored, or aid or assist any person in receiving, keeping or storing, or have at any one time, in any one place, except the storehouse provided therefor by government, more than one case of naptha, and one case of benzole, nor more than ten cases of petroleum, kerosene oil, or any oils, of which the component part is petroleum, naptha or spirits of turpentine. (1868, p. 12.)

2. The importation into this kingdom of nitro-glycerine, and all other analogous liquid explosives or substances, is absolutely prohibited under the penalties hereinafter prescribed for each and every violation of the provisions of this chapter. And in the event that any nitro-glycerine, or any other analogous liquid explosives or substances shall be brought into this king-

dom in any vessel or vessels, the same shall be subject to seizure and condemnation.

3. Any person keeping, storing or having benzole, petroleum, kerosene oil, or any oils, of which the component part is petroleum, naptha or spirits of turpentine, in any one place except the storehouse provided by government therefor, in the quantities, as provided in this chapter, shall keep the same in air-tight metallic vessels, which vessel or vessels shall be marked with the words benzole, petroleum, kerosene oil, or the name of the oil or oils of which the component part is petroleum, naptha or spirits of turpentine, in plain Roman letters, and shall be kept at all times conspicuously in view near the entrance of the premises where kept, and convenient for removal therefrom.

4. No person shall convey, or cause to be conveyed, or assist in conveying in any vehicle, boat or vessel, any benzole, petroleum, kerosene oil, or any oil, of which the component part is petroleum, naptha, or spirits of turpentine, unless the same shall be securely packed in close metallic packages, nor unless such packages shall be securely covered while in such vehicle, boat or vessel, and when transported on any boat or vessel, shall be carried on the deck of such boat or vessel.

5. No person shall discharge benzole, petroleum, kerosene oil, or any oils, the component part of which is petroleum, naptha, or spirits of turpentine from any vessel, except from ship's side or tackles, nor before the vessel shall be hauled up to the wharf. And all benzole, petroleum, kerosene oil, and all oils, the component part of which is petroleum, naptha or spirits of turpentine, landed or placed on any wharf, or deposited on any sidewalk in the city of Honolulu, Lahaina, or Hilo, for forwarding or shipment, shall be forwarded or shipped immediately after it shall be so landed or placed.

6. The marshal of the Hawaiian Islands, and his deputies, and the sheriffs of the different islands, and their deputies, shall take possession of and safely store in the storehouses provided for such purpose, all benzole, petroleum, kerosene oil, and all oils, the component part of which is petroleum, naptha or spirits of turpentine, that may be landed, stored, placed or deposited in violation of any of the provisions of the preceding

sections of this chapter, and shall keep the same until all expenses incurred by them in removing and storing the same shall have been refunded or repaid to them. But the acts of the said officers in relation thereto shall not relieve any person from any penalty theretofore incurred.

7. The chief engineer, the assistant engineers, and the secretary of the fire department and fire wardens of the city of Honolulu, and the marshal of the Hawaiian Islands, the sheriffs of the different islands, and the police throughout the islands, are directed to see that the provisions of this chapter are enforced, and to make complaints to the police magistrates or district justices for the violation of the provisions thereof.

8. Any person or persons violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and on conviction before a police magistrate or any district justice, shall be punished by a fine not less than fifty dollars nor more than five hundred dollars, or by imprisonment at hard labor not more than three months, or by both fine and imprisonment, in the discretion of the court.

9. The minister of the interior is hereby empowered and fully authorized to make such rules and regulations in relation to the keeping on the premises of any person, and the storing of any explosive substances other than those known by the name of gunpowder, and not hereinbefore particularly mentioned in this chapter, as he shall deem advisable for the protection of life and property.

CHAPTER XC.

FOR THE CONSTRUCTION OF STATUTES WHERE THE ENGLISH AND HAWAIIAN VERSIONS DO NOT AGREE.

1. Whenever there shall be found to exist any radical and irreconcilable difference between the English and Hawaiian version of any of the laws of the kingdom, which have been, or may hereafter be enacted, the English version shall be held binding. (1864, p. 68.)

CHAPTER XCI.

TRIAL OF DIFFERENT DEGREES OF CERTAIN OFFENSES UNDER ONE INDICTMENT.

1. Under an indictment for robbery, larceny, or any other offense of more than one degree, the jury may, when the evidence will not warrant a verdict of guilty in the degree for which the prisoner is indicted, return a verdict for any lesser degree of the same offense. (1859, Civil Code, p. 411.)

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ERRATA.

Page 92, Chap. 39, Sec. 4, first line, for "sha l," read shall.

Page 92, Chap. 39, Sec. 4, second line, for "impresonmen," read imprisonment.

Page 108, Chap. 44, Sec. 5, first line, for "commits," read commit.

Page 108, Chap. 44, Sec. 5, second line, for "othenwise," read otherwise.

Page 134, Chap. 55, Sec. 8, sixth line, for "obtain," read obtaining.

CONSTITUTION

GRANTED BY HIS MAJESTY KAMEHAMEHA V., BY THE GRACE OF GOD, KING OF THE HAWAIIAN ISLANDS, ON THE TWENTIETH DAY OF AUGUST, A. D. 1864.

ARTICLE 1. God hath endowed all men with certain inalienable rights; among which are life, liberty, and the right of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

ARTICLE 2. All men are free to worship God according to the dictates of their own consciences; but this sacred privilege hereby secured, shall not be so construed as to justify acts of licentiousness, or practices inconsistent with the peace or safety of the Kingdom.

ARTICLE 3. All men may freely speak, write, and publish their sentiments on all subjects, being responsible for the abuse of that right, and no law shall be enacted to restrain the liberty of speech, or of the press, except such laws as may be necessary for the protection of His Majesty the King and the Royal Family.

ARTICLE 4. All men shall have the right, in an orderly and peaceable manner, to assemble, without arms, to consult upon the common good, and to petition the King or Legislative Assembly for redress of grievances.

ARTICLE 5. The privilege of the writ of *Habeas Corpus* belongs to all men, and shall not be suspended, unless by the King, when in cases of rebellion or invasion, the public safety shall require its suspension.

ARTICLE 6. No person shall be subject to punishment for any offense, except on due and legal conviction thereof, in a Court having jurisdiction of the case.

ARTICLE 7. No person shall be held to answer for any crime

or offence, (except in cases of impeachment, or for offences within the jurisdiction of a Police or District Justice, or in summary proceedings for contempt,) unless upon indictment, fully and plainly describing such crime or offence, and he shall have the right to meet the witnesses who are produced against him face to face; to produce witnesses and proofs in his own favor; and by himself or his counsel, at his election, to examine the witnesses produced by himself, and cross-examine those produced against him, and to be fully heard in his defence. In all cases in which the right of trial by Jury has been heretofore used, it shall be held inviolable forever, except in actions of debt or assumpsit in which the amount claimed is less than Fifty Dollars.

ARTICLE 8. No person shall be required to answer again for an offence, of which he has been duly convicted, or of which he has been duly acquitted upon a good and sufficient indictment.

ARTICLE 9. No person shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law.

ARTICLE 10. No person shall sit as a judge or juror, in any case in which his relative is interested, either as plaintiff or defendant, or in the issue of which the said judge or juror, may have, either directly or through a relative, any pecuniary interest.

ARTICLE 11. Involuntary servitude, except for crime, is forever prohibited in this Kingdom; whenever a slave shall enter Hawaiian Territory, he shall be free.

ARTICLE 12. Every person has the right to be secure from all unreasonable searches and seizures of his person, his house, his papers, and effects; and no warrants shall issue, but on probable cause, supported by oath or affirmation, and describing the place to be searched, and the persons or things to be seized.

ARTICLE 13. The King conducts His Government for the common good; and not for the profit, honor, or private interest of any one man, family, or class of men among His subjects.

ARTICLE 14. Each member of society has a right to be protected by it, in the enjoyment of his life, liberty, and property,

according to law; and, therefore, he shall be obliged to contribute his proportional share to the expense of this protection, and to give his personal services, or an equivalent when necessary; but no part of the property of any individual shall be taken from him, or applied to public uses, without his own consent, or the enactment of the Legislative Assembly, except the same shall be necessary for the military operation of the Kingdom in time of war or insurrection; and whenever the public exigencies may require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

ARTICLE 15. No subsidy, duty or tax of any description shall be established or levied, without the consent of the Legislative Assembly; nor shall any money be drawn from the Public Treasury without such consent, except when between the sessions of the Legislative Assembly the emergencies of war, invasion, rebellion, pestilence, or other public disaster shall arise, and then not without the concurrence of all the Cabinet, and of a majority of the whole Privy Council; and the Minister of Finance shall render a detailed account of such expenditure to the Legislative Assembly.

ARTICLE 16. No Retrospective Laws shall ever be enacted.

ARTICLE 17. The Military shall always be subject to the laws of the land; and no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by the Legislature.

ARTICLE 18. Every Elector shall be privileged from arrest on election days, during his attendance at election, and in going to and returning therefrom, except in cases of treason, felony, or breach of the peace.

ARTICLE 19. No Elector shall be so obliged to perform military duty, on the day of election, as to prevent his voting; except in time of war, or public danger.

ARTICLE 20. The Supreme Power of the Kingdom in its exercise, is divided into the Executive, Legislative, and Judicial; these shall always be preserved distinct, and no Judge of a

Court of Record shall ever be a member of the Legislative Assembly.

ARTICLE 21. The Government of this Kingdom is that of a Constitutional Monarchy, under His Majesty Kamehameha V., His Heirs and Successors.

ARTICLE 22. The Crown is hereby permanently confirmed to His Majesty Kamehameha V., and to the Heirs of His body lawfully begotten, and to their lawful Descendants in a direct line; failing whom, the Crown shall descend to Her Royal Highness the Princess Victoria Kamamalu Kaahumanu, and the heirs of her body, lawfully begotten, and their lawful descendants in a direct line. The Succession shall be to the senior male child, and to the heirs of his body; failing a male child, the succession shall be to the senior female child, and to the heirs of her body. In case there is no heir as above provided, then the successor shall be the person whom the Sovereign shall appoint with the consent of the Nobles, and publicly proclaim as such during the King's life; but should there be no such appointment and proclamation, and the Throne should become vacant, then the Cabinet Council, immediately after the occurring of such vacancy, shall cause a meeting of the Legislative Assembly, who shall elect by ballot some native Alii of the Kingdom as Successor to the Throne; and the Successor so elected shall become a new *Stirps* for a Royal Family; and the succession from the Sovereign thus elected, shall be regulated by the same Law as the Present Royal Family of Hawaii.

ARTICLE 23. It shall not be lawful for any member of the Royal Family of Hawaii who may by Law succeed to the Throne, to contract Marriage without the consent of the Reigning Sovereign. Every Marriage so contracted shall be void, and the person so contracting a Marriage, may, by the Proclamation of the Reigning Sovereign, be declared to have forfeited His or Her right to the Throne, and after such Proclamation, the Right of Succession shall vest in the next Heir as though such offender were *Dead*.

ARTICLE 24. His Majesty Kamehameha V., will, and His Successors upon coming to the Throne, shall take the following oath: I solemnly swear in the presence of Almighty God, to

maintain the Constitution of the Kingdom whole and inviolate, and to govern in conformity therewith.

ARTICLE 25. No person shall ever sit upon the Throne, who has been convicted of any infamous crime, or who is insane, or an idiot.

ARTICLE 26. The King is the Commander-in-Chief of the Army and Navy, and of all other Military Forces of the Kingdom, by sea and land; and has full power by Himself, or by any officer or officers He may appoint, to train and govern such forces, as He may judge best for the defence and safety of the Kingdom. But he shall never proclaim war without the consent of the Legislative Assembly.

ARTICLE 27. The King, by and with the advice of His Privy Council, has the power to grant reprieves and pardons, after conviction, for all offences, except in cases of impeachment.

ARTICLE 28. The King, by and with the advice of His Privy Council, convenes the Legislative Assembly at the seat of Government, or at a different place, if that should become dangerous from an enemy or any dangerous disorder; and in case of disagreement between His Majesty and the Legislative Assembly, he adjourns, prorogues, or dissolves it, but not beyond the next ordinary Session; under any great emergency, he may convene the Legislative Assembly to extraordinary Sessions.

ARTICLE 29. The King has the power to make Treaties. Treaties involving changes in the Tariff or in any law of the Kingdom shall be referred for approval to the Legislative Assembly. The King appoints Public Ministers, who shall be commissioned, accredited, and instructed agreeably to the usage and law of Nations.

ARTICLE 30. It is the King's Prerogative to receive and acknowledge Public Ministers; to inform the Legislative Assembly by Royal Message, from time to time, of the state of the Kingdom, and to recommend to its consideration such measures as he shall judge necessary and expedient.

ARTICLE 31. The person of the King is inviolable and sacred. His Ministers are responsible. To the King belongs the Executive power. All laws that have passed the Legislative Assembly, shall require His Majesty's signature in order to their validity.

ARTICLE 32. Whenever, upon the decease of the Reigning Sovereign, the Heir shall be less than eighteen years of age, the Royal Power shall be exercised by a Regent or Council of Regency, as hereinafter provided.

ARTICLE 33. It shall be lawful for the King at any time when he may be about to absent himself from the Kingdom, to appoint a Regent or Council of Regency, who shall administer the Government in His name; and likewise the King may, by His last Will and Testament, appoint a Regent or Council of Regency to administer the Government during the Minority of any Heir to the Throne; and should a Sovereign decease, leaving a Minor Heir, and having made no last Will and Testament, the Cabinet Council at the time of such decease shall be a Council of Regency, until the Legislative Assembly, which shall be called immediately, may be assembled, and the Legislative Assembly immediately that it is assembled shall proceed to choose by ballot, a Regent or Council of Regency, who shall administer the Government in the name of the King, and exercise all the Powers which are Constitutionally vested in the King, until he shall have attained the age of eighteen years, which age is declared to be the Legal Majority of such Sovereign.

ARTICLE 34. The King is Sovereign of all the Chiefs and of all the People; the Kingdom is His.

ARTICLE 35. All Titles of Honor, Orders, and other distinctions. emanate from the King.

ARTICLE 36. The King coins money, and regulates the currency by law.

ARTICLE 37. The King, in case of invasion or rebellion, can place the whole Kingdom or any part of it under martial law.

ARTICLE 38. The National Ensign shall not be changed, except by Act of the Legislature.

ARTICLE 39. The King's private lands and other property are inviolable.

ARTICLE 40. The King cannot be sued or held to account in any Court or Tribunal of the Realm.

ARTICLE 41. There shall continue to be a Council of State,

for advising the King in all matters for the good of the State, wherein He may require its advice, and for assisting him in administering the Executive affairs of the Government, in such manner as he may direct; which Council shall be called the King's Privy Council of State, and the members thereof shall be appointed by the King, to hold office during His Majesty's pleasure.

ARTICLE 42. The King's Cabinet shall consist of the Minister of Foreign Affairs, the Minister of the Interior, the Minister of Finance, and the Attorney General of the Kingdom, and these shall be His Majesty's Special Advisers in the Executive affairs of the Kingdom; and they shall be *ex officio* Members of His Majesty's Privy Council of State. They shall be appointed and commissioned by the King, and hold office during His Majesty's pleasure, subject to impeachment. No act of the King shall have any effect unless it be countersigned by a Minister, who by that signature makes himself responsible.

ARTICLE 43. Each member of the King's Cabinet shall keep an office at the seat of Government, and shall be accountable for the conduct of his deputies and clerks. The Ministry hold seats *ex officio*, as Nobles, in the Legislative Assembly.

ARTICLE 44. The Minister of Finance shall present to the Legislative Assembly in the name of the Government, on the first day of the meeting of the Legislature, the Financial Budget, in the Hawaiian and English languages.

ARTICLE 45. The Legislative power of the Three Estates of this Kingdom is vested in the King, and the Legislative Assembly; which Assembly shall consist of the Nobles appointed by the King, and of the Representatives of the People, sitting together.

ARTICLE 46. The Legislative Body shall assemble biennially, in the month of April, and at such other time as the King may judge necessary, for the purpose of seeking the welfare of the Nation. This Body shall be styled the Legislature of the Hawaiian Kingdom.

ARTICLE 47. Every member of the Legislative Assembly shall take the following oath: I most solemnly swear, in the presence of Almighty God, that I will faithfully support the

Constitution of the Hawaiian Kingdom, and conscientously and impartially discharge my duties as a member of this Assembly.

ARTICLE 48. The Legislature has full power and authority to amend the Constitution as hereinafter provided ; and from time to time to make all manner of wholesome laws, not repugnant to the provisions of the Constitution.

ARTICLE 49. The King shall signify His approval of any Bill or Resolution, which shall have passed the Legislative Assembly, by signing the same previous to the final rising of the Legislature. But if he shall object to the passing of such Bill or Resolution, He will return it to the Legislative Assembly, who shall enter the fact of such return on its journal, and such Bill or Resolution shall not be brought forward thereafter during the same session.

ARTICLE 50. The Legislative Assembly shall be the judge of the qualifications of its own members, and a majority shall constitute a quorum to do business ; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as the Assembly may provide.

ARTICLE 51. The Legislative Assembly shall choose its own officers and determine the Rules of its own proceedings.

ARTICLE 52. The Legislative Assembly shall have authority to punish by imprisonment, not exceeding thirty days, every person, not a member, who shall be guilty of disrespect to the Assembly, by any disorderly or contemptuous behavior in its presence ; or who, during the time of its sitting, shall publish any false report of its proceedings, or insulting comments upon the same ; or who shall threaten harm to the body or estate of any of its members, for anything said or done in the Assembly; or who shall assault any of them therefor, or who shall assault or arrest any witness, or other person ordered to attend the Assembly, in his way going or returning ; or who shall rescue any person arrested by order of the Assembly.

ARTICLE 53. The Legislative Assembly may punish its own members for disorderly behavior.

ARTICLE 54. The Legislative Assembly shall keep a journal of its proceedings; and the yeas and nays of the members, on

any question, shall, at the desire of one-fifth of those present, be entered on the journal.

ARTICLE 55. The Members of the Legislative Assembly shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the Sessions of the Legislature, and in going to and returning from the same; and they shall not be held to answer for any speech or debate made in the Assembly, in any other Court or place whatsoever.

ARTICLE 56. The Representatives shall receive for their services a compensation to be ascertained by law, and paid out of the Public Treasury, but no increase of compensation shall take effect during the year in which it shall have been made; and no law shall be passed, increasing the compensation of said Representatives beyond the sum of One Hundred and Fifty Dollars for each session.

ARTICLE 57. The King appoints the Nobles, who shall hold their appointments during life, subject to the provisions of Article 53; but their number shall not exceed twenty.

ARTICLE 58. No person shall be appointed a Noble who shall not have attained the age of twenty-one years and resided in the Kingdom five years.

ARTICLE 59. The Nobles shall be a Court, with full and sole authority to hear and determine all impeachments made by the Representatives, as the Grand Inquest of the Kingdom, against any officers of the Kingdom, for misconduct or mal-administration in their offices; but previous to the trial of every impeachment the Nobles shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence and the law. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this Government; but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment and punishment according to the laws of the land. No Minister shall sit as a Noble on the trial of any impeachment.

ARTICLE 60. The Representation of the People shall be based upon the principle of equality, and shall be regulated and apportioned by the Legislature according to the population,

to be ascertained, from time to time, by the official census. The Representatives shall not be less in number than twenty-four, nor more than forty, who shall be elected biennially.

ARTICLE 61. No person shall be eligible for a Representative of the People, who is insane or an idiot; nor unless he be a male subject of the Kingdom, who shall have arrived at the full age of Twenty-One years—who shall know how to read and write—who shall understand accounts—and shall have been domiciled in the Kingdom for at least three years, the last of which shall be the year immediately preceding his election; and who shall own Real Estate, within the Kingdom, of a clear value, over and above all incumbrances, of at least Five Hundred Dollars; or who shall have an annual income of at least Two Hundred and Fifty Dollars, derived from any property, or some lawful employment.

ARTICLE 62. Every male subject of the Kingdom, who shall have paid his taxes, who shall have attained the age of twenty years, and shall have been domiciled in the Kingdom for one year immediately preceding the election; and shall be possessed of Real Property in this Kingdom, to the value over and above all incumbrances of One Hundred and Fifty Dollars—or of a Lease-hold property on which the rent is Twenty-five Dollars per year—or of an income of not less than Seventy-Five Dollars per year, derived from any property or some lawful employment and shall know how to read and write, if born since the year 1840 and shall have caused his name to be entered on the list of voters of his District as may be provided by law, shall be entitled to one vote for the Representative or Representatives of that District. *Provided, however*, that no insane or idiotic person, nor any person who shall have been convicted of any infamous crime within this Kingdom, unless he shall have been pardoned by the King, and by the terms of such pardon have been restored to all the rights of a subject, shall be allowed to vote.

ARTICLE 63. The property qualification of the Representatives of the People, and of the Electors, may be increased by law.

ARTICLE 64. The Judicial Power of the Kingdom shall be vested in one Supreme Court, and in such Inferior Courts as the Legislature may, from time to time, establish.

ARTICLE 65. The Supreme Court shall consist of a Chief Justice, and not less than two Associate Justices, any of whom may hold the Court. The Justices of the Supreme Court shall hold their offices during good behavior, subject to removal upon impeachment, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office. *Provided, however*, that any Judge of the Supreme Court or any other Court of Record may be removed from office, on a resolution passed by two-thirds of the Legislative Assembly, for good cause shown to the satisfaction of the King. The Judge against whom the Legislative Assembly may be about to proceed, shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least ten days before the day on which the Legislative Assembly shall act thereon. He shall be heard before the Legislative Assembly.

ARTICLE 66. The Judicial Power shall be divided among the Supreme Court and the several Inferior Courts of the Kingdom, in such manner as the Legislature may, from time to time, prescribe, and the tenure of office in the Inferior Courts of the Kingdom shall be such as may be defined by the law creating them.

ARTICLE 67. The Judicial Power shall extend to all cases in law and equity, arising under the Constitution and laws, of this Kingdom, and Treaties made, or which shall be made under their authority, to all cases affecting Public Ministers and Consuls, and to all cases of Admiralty and Maritime jurisdiction.

ARTICLE 68. The Chief Justice of the Supreme Court shall be the Chancellor of the Kingdom; he shall be *ex officio* President of the Nobles in all cases of impeachment, unless when impeached himself; and exercise such jurisdiction in equity or other cases as the law may confer upon him; his decisions being subject, however, to the revision of the Supreme Court on appeal. Should the Chief Justice ever be impeached, some person specially commissioned by the King shall be President of the Court of Impeachment during such trial.

ARTICLE 69. The decisions of the Supreme Court, when made by a majority of the Justices thereof, shall be final and conclusive upon all parties.

ARTICLE 70. The King, His Cabinet, and the Legislative

Assembly, shall have authority to require the opinions of the Justices of the Supreme Court, upon important questions of law, and upon solemn occasions.

ARTICLE 71. The King appoints the Justices of the Supreme Court, and all other Judges of Courts of Record ; their salaries are fixed by law.

ARTICLE 72. No judge or Magistrate can sit alone on an appeal or new trial, in any case on which he may have given a previous judgment.

ARTICLE 73. No person shall ever hold any office of Honor, Trust, or Profit under the Government of the Hawaiian Islands, who shall, in due course of law, have been convicted of Theft, Bribery, Perjury, Forgery, Embezzlement, or other high crime or misdemeanor, unless he shall have been pardoned by the King, and restored to his Civil Rights, and by the express terms of his pardon, declared to be appointable to offices of Trust, Honor, and Profit.

ARTICLE 74. No officer of this Government shall hold any office, or receive any salary from any other Government or Power whatever.

ARTICLE 75. The Legislature votes the Appropriations biennially, after due consideration of the Revenue and expenditure for the two preceding years, and the estimates of the revenue and expenditure of the two succeeding years, which shall be submitted to them by the Minister of Finance.

ARTICLE 76. The enacting style in making and passing all Acts and Laws shall be, "Be it enacted by the King, and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled."

ARTICLE 77. To avoid improper influences which may result from intermixing in one and the same Act, such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in its title.

ARTICLE 78. All laws now in force in this Kingdom, shall continue and remain in full effect, until altered or repealed by the Legislature ; such parts only excepted as are repugnant to this Constitution. All laws heretofore enacted, or that may hereafter be enacted, which are contrary to this Constitution, shall be null and void.

ARTICLE 79. This Constitution shall be in force from the Twentieth day of August in the year One Thousand Eight Hundred and Sixty-Four, but that there may be no failure of justice, or inconvenience to the Kingdom, from any change, all officers of this Kingdom, at the time this Constitution shall take effect, shall have, hold, and exercise all the power to them granted, until other persons shall be appointed in their stead.

ARTICLE 80. Any amendment or amendments to this Constitution may be proposed in the Legislative Assembly, and if the same shall be agreed to by a majority of the members thereof, such proposed amendment or amendments shall be entered on its journal, with the yeas and nays taken thereon, and referred to the next Legislature; which proposed amendment or amendments shall be published for three months previous to the next election of Representatives; and if in the next Legislature such proposed amendment or amendments shall be agreed to by two-thirds of all the members of the Legislative Assembly, and be approved by the King, such amendment or amendments shall become part of the Constitution of this country.

KAMEHAMEHA R.

AMENDMENT TO THE CONSTITUTION.

AN ACT—TO AMEND THE CONSTITUTION GRANTED BY HIS MAJESTY KAMEHAMEHA V. ON THE 20TH DAY OF AUGUST, 1864, PROPOSED IN ACCORDANCE WITH ARTICLE 80 OF THE CONSTITUTION.

Be it Enacted by the King and the Legislative Assembly of the Hawaiian Islands, in the Legislature of the Kingdom assembled:

That Article 56 be, and the same is hereby amended by striking out the words "one hundred and fifty," and inserting in the place thereof, the words "two hundred and fifty," so that the article as amended shall read as follows:

"The Representatives shall receive for their services, a compensation, to be ascertained by law, and paid out of the public Treasury; but no increase of compensation shall take effect during the year in which it shall have been made; and no law shall be passed, increasing the compensation of said Representatives beyond the sum of "two hundred and fifty dollars for each session."

Approved this 13th day of May, A. D., 1868.

KAMEHAMEHA R.